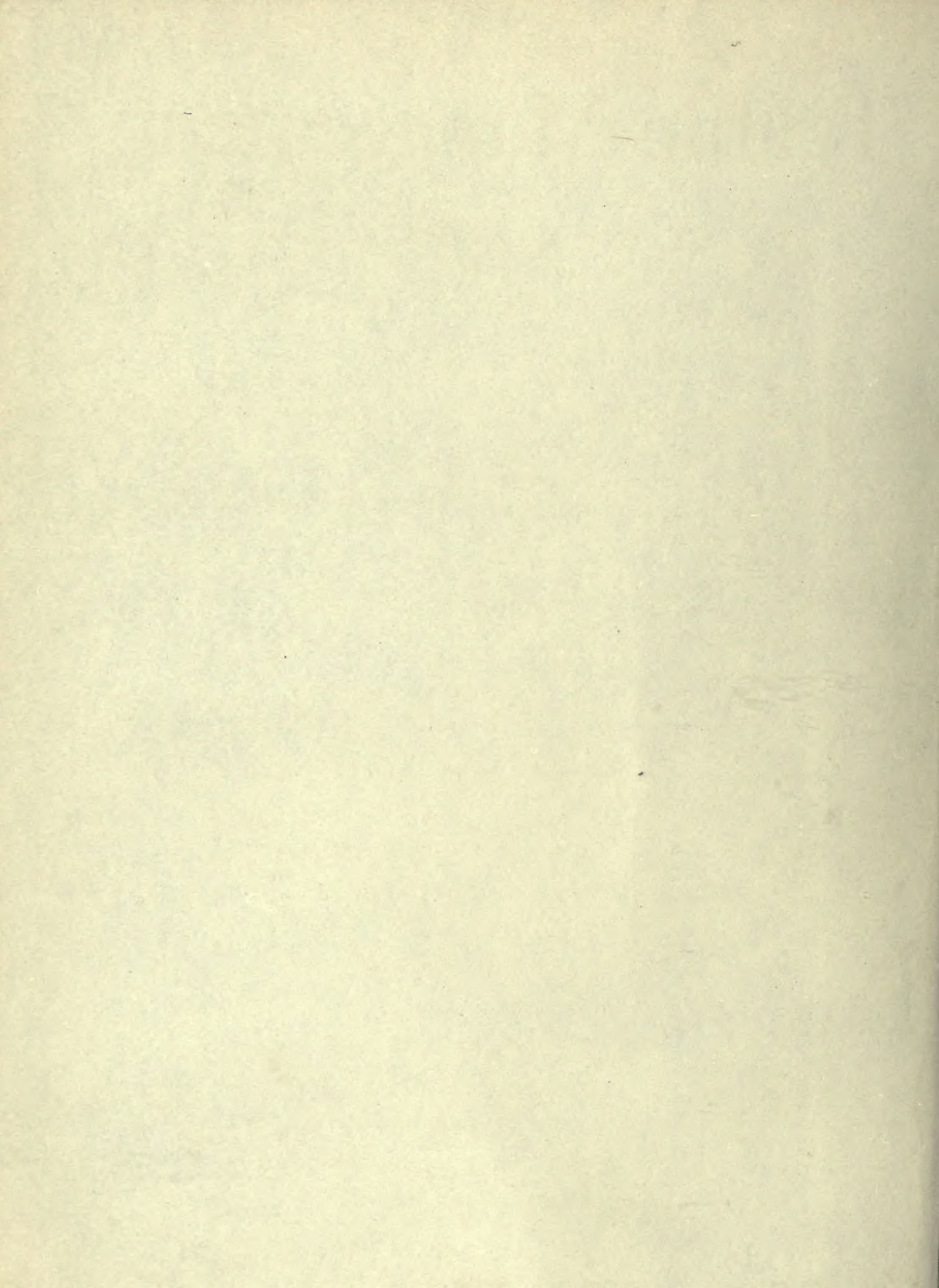


Freight Traffic • GUIDE •





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WILLIAM JESSUP SHOLAR,
General Editor.

Traffic Management

THE STANDARD COURSE
OF THE
UNITED Y.M.C.A. SCHOOLS



BOOK I
FUNDAMENTALS OF TRANSPORTATION

BOOK II
TARIFF INTERPRETATION AND RATE CONSTRUCTION

BOOK III
EXPRESS AND PARCEL POST:
CLAIMS AND TRANSPORTATION LAW

BOOK IV
OCEAN TRANSPORTATION

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FREIGHT TRAFFIC GUIDE

A Compilation of the Rules, Regulations,
Laws, and Practices, Which Govern Inter-
state Transportation of Freight, Express,
and Parcel Post; Arranged for Collateral
Reading with the Texts of the Standard
Course in Traffic Management Provided
by the United Y. M. C. A. Schools.

Compiled by
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TRAFFIC ABBREVIATIONS

ACCT.	—Account	C.O.D.	—Collect on delivery
ACTG.	—Acting	COM.	—Committee
AD. VAL.	—Ad Valorem	COMM.	—Commission
A. G. F. A.	—Assistant General Freight Agent	COMM'R	—Commissioner
AGRL.	—Agricultural	CONF.	—Conference
AGT.	—Agent	CONF. RUL. BUL.	—Conference Ruling Bulletin
AMT.	—Amount	C. R.	—Carrier's Risk
A. Q.	—Any Quantity	C.R.C.	—Canadian Railway Commission
A. R.	—All Rail	CROSSG.	—Crossing
A.R.A.	—American Railway Association	CTS.	—Cents
ARB.	—Arbitrary	DELY.	—Delivery
ARR.	—Arrived	DEM.	—Demurrage
ASS'N.	—Association	DESP.	—Despatch
ASST.	—Assistant	D.F.A.	—Division Freight Agent
@	—At	DIFF.	—Differential
A.T.M.	—Assistant Traffic Manager	DIV.	—Division
Av.	—Average	DOZ.	—Dozen
A/W	—Actual Weight		
		E.B.	—Eastbound
B.B.	—Break Bulk	ELEC.	—Electric
BBL.	—Barrel	EST.	—Estimated
BBLs.	—Barrels	EST. WT.	—Estimated Weight
BD.	—Board	EXCPT.	—Exception
BDL.	—Bundle	EXP.	—Export
BET.	—Between		
B/L	—Bill of Lading	F.A.	—(a) Freight Agent (b) Free Astray
BLS.	—Bales	F.B.	—Freight Bill
B.O.	—Bad Order	F.C.A.	—Freight Claim Agent
BR.	—Branch	FLT.	—Float
BSKT.	—Basket	F.O.B.	—Free on Board
BT.	—Boat	FRT.	—Freight
BU.	—Bushel	FT.	—Feet
BX.	—Box	F. X.	—Freight Tariff Concurrence
C.F.C.	—Consolidated Freight Classification	G.F.A.	—General Freight Agent
CHG.	—Charge	G.F.O.	—General Freight Office
CIR.	—Circular	G.O.	—General Office
CLASS'N	—Classification	G.O.C.	—General Operating Committee
C. AND L.	—Canal and Lake	G.P.A.	—General Passenger Agent
CL.	—Claim	GR.	—Gross
C. L.	—Carload	G.T.	—Gross Ton
C.L.&R.	—Canal, Lake and Rail	G.T.M.	—General Traffic Manager
c/o	—Care of		
Co.	—(a) Company (b) County		

HGT.	—Height	O.R.L.	—Owner's Risk of Leakage
HHD.	—Hogshead	O.S. & D.	—Over, short and damage
I. & S. DOCKET	—Investigation and Suspension Docket	PKG.	—Package
I.C.C.	—Interstate Commerce Commission	P.P.	—Prepaid
I.L.	—Inter-line	P.S.C.	—Public Service Commission
INCL.	—Inclusive	REFRIG.	—Refrigerator
INS.	—Insurance	R. & L.	—Rail and Lake
INV.	—Invoice	R.L. & R.	—Rail, Lake and Rail
JCT.	—Junction	R.E.R.	—Railway Equipment Register
Jr.	—Joint	R.Q.	—Regardless of quantity
K. D.	—Knocked Down	R.R.	—Railroad
L. & D.	—Loss and Damage	RTE.	—Route
L. & R.	—Lake and Rail	Rwy.	—Railway
LB.	—Pound	Ry.	—Railway
LBS.	—Pounds	R. & W.	—Rail and Water
L.C.L.	—Less than carload	S.C.	—Southern Classification
LDG.	—Landing	S.C. & S.	—Strapped, Corded and Sealed
LG. TN.	—Long ton	SDG.	—Siding
LTD.	—Limited	SEC.	—Section
LTGE.	—Lighterage	SH. TN.	—Short ton
MAX.	—Maximum	S.L. & C.	—Shipper's load and count
M.C.B.	—Master Car Builder	S.L.W. & C.	—Shipper's load, weight and count
MDSE.	—Merchandise	S.O.	—Shipping Order
MEMO.	—Memorandum	S.S.	—Steamship
MIN.	—Minimum	STA.	—Station
MIN. WT.	—Minimum Weight	STR.	—Steamer
MISC.	—Miscellaneous	S.U.	—Set Up
M.I.T.	—Milling in Transit	SUP.	—Supplement
MT.	—Mount	SUPT.	—Superintendent
MTY.	—Empty	SWTG.	—Switching
No.	—Number	SYS.	—System
N.O.I.B.N.	—Not otherwise indexed by name	TERM.	—Terminal
N.O.S.	—Not otherwise specified	TFR.	—Transfer
NSTD.	—Nested	T.M.	—Traffic Manager
N. T.	—Net Ton	TNGE.	—Tonnage
NTFY.	—Notify	TRANS.	—Transportation
O.C.	—Official Classification	W.B.	—(a) Way-bill (b) Westbound
O/C	—Overcharge	W.C.	—Western Classification
O/N	—Order-Notify	WHSE.	—Warehouse
O/R	—Owner's Risk	W.M.	—Weight or Measurement
O.R.B.	—Owner's Risk of Breakage	WT.	—Weight
O.R.C.	—Owner's Risk of Chafing	W. T.	—War Tax

TRAFFIC GLOSSARY

A

ABSORB.—To incorporate a charge in the regular rate.

ABSORPTION.—The act of carriers in including in their rate from the starting point to point of delivery at destination, charges that may have been assessed against the freight during its transportation from the point of origin.

AD VALOREM.—Referring to the value.

ADVANCED CHARGES.—The amount of freight or other charges on a shipment advanced by a transportation line to be collected from the consignee.

AFFIDAVIT.—A voluntary sworn declaration in writing made before a competent authority.

AGENCY.—The relation of an agent to the carriers authorizing him to act for them.

AGENCY TARIFF.—A tariff issued by an authorized agent for transportation lines.

AGENT.—One who has power to act for another.

AGREED WEIGHT.—The weight at which goods shipped in certain packages or in a prescribed manner are transported by carriers according to an agreement.

ALL RAIL.—Entire transportation by railroad.

ALL WATER.—Entire transportation by water.

ANALOGOUS ARTICLES.—Articles corresponding or resembling others in certain respects.

ANY-QUANTITY RATE.—A rate applicable to a commodity in any quantity.

ARBITRARY.—An amount added to or deducted from a rate to a designated point or points.

ARRIVAL NOTICE.—A notice given to consignee on arrival of freight.

ASSIGNED SIDING.—A side track owned by a transportation line and assigned to a firm or individual, on which cars are placed to be loaded or unloaded, usually for a specified period.

ASTRAY FREIGHT.—Freight correctly marked but separated from the original shipment and arriving at a point other than its destination.

AUTOMOBILE CAR.—A car specially built for the transportation of automobiles.

AVERAGE DEMURRAGE AGREEMENT.—An agreement made between a shipper and a carrier for the adjustment of demurrage charges on the basis of a debit and credit for loading and unloading cars for each calendar month.

B

BARGE.—A flat-bottom boat.

BASING POINT.—A point to or from which rates are used in constructing the rates from or to another point.

BASING RATE.—A rate used for the purpose of constructing other rates.

BERTH.—A place at a pier or bulkhead, at which a lighter may dock.

BILLS OF LADING ACT.—An Act of Congress relating to the conditions under which freight is transported by common carriers.

BILL OF LADING.—

(a) Straight bill of lading.—A non-negotiable document acknowledging the receipt of property, signed by the agent of the carrier and contracting for its movement under certain conditions.

(b) Order-Notify Bill of Lading.—A negotiable document acknowledging the receipt of property, signed by the agent of the carrier and contracting for its movement under certain conditions. The surrender of the original Order-Notify Bill of Lading, properly endorsed; i. e., by the party to whose order it is consigned is required by transportation lines prior to delivery of the freight.

BLIND TALLY.—(a) A check of the lading of a car without knowledge of billed contents.

(b) A check of the lading of a car without knowledge of the quantity of freight to be loaded.

BOND OF INDEMNITY.—A surety given to a transportation line to indemnify it against all claims or liability for any action on its part for which it might be legally liable.

BOX CAR.—A closed car.

BREAK BULK.—(a) To partially unload a car;
(b) To begin unloading.

BULK FREIGHT.—(a) Freight not in containers; (b) Freight in packages under a certain specified weight.

BULKHEAD.—A structure of stone or wood between docks or piers on the water front.

C

CARFLOAT.—A large flat-bottom boat upon which are laid tracks in order that railroad cars may be placed thereon and towed across water to a freight station where the cars are loaded or unloaded.

CARGO.—The lading of a vessel.

CAR LINING.—Material placed on the sides of a car for protection of goods.

CARLOAD.—The quantity of freight the weight of which entitles it to the application of the carload rate.

CARLOAD MINIMUM WEIGHT.—The least weight that entitles a shipment to carload rating.

CARLOAD RATE.—A rate applicable to a commodity forwarded in carload lots.

CAR SERVICE.—The general freight service pertaining to the use of railroad cars.

CAR SEAL.—A device for fastening car-doors usually consisting of wire with a lead seal which is pressed together by a sealing-iron.

CARRIER.—A person or company that undertakes to carry goods for pay.

CARTAGE.—The charge made for hauling freight on drays or motor trucks.

CARTING.—The hauling of freight on drays or motor trucks.

CERTIFICATE OF ORIGIN.—A certified document as to origin of goods.

CERTIFICATE OF WEIGHT.—A certified statement of the weight of a shipment.

CHECK SHEET.—(a) A sheet form on which is made a tally of the freight loaded in or unloaded from cars. (b) Notations are made on this sheet of any exceptions to condition of freight.

CIRCUITOUS ROUTE.—An indirect or round-about route.

CLAIM.—A bill rendered to a transportation line for loss, damage, or overcharge.

CLAIM TRACER.—A letter requesting adjustment of a claim that has been presented.

CLASSIFICATION.—A system of grouping commodities into classes for the purpose of rating.

CLASSIFICATION RATING.—The ratings assigned to articles named in a Classification.

CLASS RATE.—A rate applicable to the class to which commodities are assigned in the Classification.

CLASS TARIFF.—A tariff containing class rates.

CLASS AND COMMODITY TARIFF.—A tariff containing both class and commodity rates.

CLEAN BILL OF LADING.—A receipted bill of lading bearing no notation of exception to condition.

CLEAN RECEIPT.—A receipt signed without any notation of an exception.

COLLECTOR OF CUSTOMS.—A representative of the United States Treasury Department appointed by the Government and assigned to a port of entry.

COMBINATION RATE.—When there is no through rate between two points a combination rate is made by adding together the rates via the route of movement.

COMMODITY.—Any article forwarded by a transportation line.

COMMODITY RATE.—A rate which applies only to articles specifically named in connection therewith.

COMMODITY TARIFF.—A tariff containing commodity rates.

COMMON CARRIER.—A person or company that undertakes to carry goods for pay when called to do so, whether by land or by water, and that is liable for all loss or damage during transportation except such as arise from natural causes.

COMMON POINT.—A point served by more than one transportation line.

COMMON TARIFF.—See Agency Tariff.

COMPETITIVE POINT.—A point served by more than one transportation line.

COMPETITIVE TRAFFIC.—Traffic the handling of which is subject to competition.

CONCEALED DAMAGE.—A damage that cannot be ascertained until goods are unpacked.

CONCEALED LOSS.—A loss that is not evident on delivery.

CONCURRENCE.—A document filed with the Interstate Commerce Commission in which a carrier agrees to rates, charges or rules published in a tariff either by an agent or another carrier.

CONFERENCE RULING OF I. C. C.—The Rulings of the Interstate Commerce Commission interpreting portions of the Interstate Commerce Act through their decisions on complaints.

CONSIGNEE.—The party to whom goods is shipped.

CONSIGNOR.—The party by whom goods is shipped.

CONTAINER.—Anything in which goods are packed.

CONVERSION.—Wrongful appropriation of goods by the carrier.

CUBICAL CAPACITY.—The capacity of a car according to measurements in cubic feet.

D

DECLINED.—The refusal of carrier to honor claim.

DEFECTIVE CAR.—A car not in proper order.

DELAY.—Unreasonable time consumed in transportation.

DELIVERING CARRIER.—The line accomplishing delivery at destination.

DEMURRAGE.—A charge made for holding cars beyond a specified time, for the purpose of loading or unloading, or for any other purpose.

DESTINATION.—The place to which a shipment is consigned.

DIFFERENTIAL.—(a) A lower rate which railroads having a common tariff allow a road to make in order to stimulate traffic. (b) The difference in rates between rate points or rate groups. (c) Difference between rates via several routes between the same points.

DIFFERENTIAL RATE.—(a) A rate from or to one point or group lower than the rate from or to the point or group to which it is related. (b) A lower rate via one route than the rate via another route between the same points.

DIFFERENTIAL ROUTE.—A line operating under a differential tariff.

DISTANCE RATES.—Rates that are applicable according to mileage.

DIVERSION.—(a) Change in the name of consignee; (b) change in the name of the consignor; (c) change in destination; (d) change in route at the request of the consignor, consignee, or owner; (e) "Order-Notify" shipments held for surrender of bill of lading and shipments placed for inspection necessitating subsequent movement; (f) any other instructions given by consignor, consignee or owner necessary to affect delivery which requires a change in billing or an additional movement of the car, or both.

DIVERT.—A change in the route of a shipment.

DOCKET.—A calendar of the cases to be heard by the Interstate Commerce Commission.

DRAYAGE.—The charge made for hauling freight by drays or motor trucks.

DUNNAGE.—Material used to protect or brace freight in or on cars.

E

EMBARGO.—Temporary stoppage of handling traffic.

EN ROUTE.—On the road.

EQUIPMENT.—Rolling stock of railroads.

ESTIMATED WEIGHT.—The weight assigned in tariffs to goods shipped in certain packages or in a specified manner.

EVIDENT DAMAGE.—Freight injured in transit and the damage is plainly evident.

EXCEPTION SHEET.—Same as Exceptions to Classification.

EXCEPTIONS TO CLASSIFICATION.—A tariff containing Classification ratings and rules different from those contained in the major Classification.

EXCESS FREIGHT.—Part of a C. L. shipment the quantity of which exceeds the capacity of one car.

EXCHANGE BILL OF LADING.—A bill of lading issued in exchange for another bill of lading.

EXPENSE BILL.—Freight bill.

EXPORT.—To forward shipments to a foreign country.

F

FAST FREIGHT.—Commodities taking the higher Classification ratings and perishable goods, being transported in trains moving on schedules.

FERRY CAR.—A car loaded with L. C. L. shipments on an industrial siding to be unloaded at carrier's terminal at point of shipment for forwarding to their respective destinations.

FIFTEENTH SECTION APPLICATION.—An application for an authority to advance rates.

FIFTEENTH SECTION ORDER.—An order issued by the Interstate Commerce Commission rendering authority to advance rates.

FLAT CAR.—An open car without sides or ends.

FLOAT BRIDGE.—A bridge connecting with the railroad and the rails on car floats.

FOREIGN CAR.—A car belonging to another road than the one on which it is in use.

FORMAL COMPLAINT.—Complaint filed with the Interstate Commerce Commission.

FOURTH SECTION APPLICATION.—A petition of a carrier to the Interstate Commerce Commission for authority to depart from the terms of the amended Fourth Section of the Act to Regulate Commerce.

FOURTH SECTION ORDER.—An order issued by the Interstate Commerce Commission permitting a carrier to charge a higher rate for a shorter than a longer distance over the same route.

FREE ASTRAY.—A traffic term meaning that a shipment has been miscarried and has been returned free of charge to its correct destination.

FREIGHT BILL.—A bill rendered by a transportation line for the amount of charges on a shipment. This bill shows the name of shipper, point of shipment, weight, rate and amount of charges.

FREIGHT HOUSE.—A terminal of a transportation line.

FREIGHT.—Any article carried by transportation lines.

FURNITURE CAR.—A special car built for handling furniture.

G

GATEWAY.—A station where railroads meet or intersect and interchange freight.

GONDOLA CAR.—A flat car having low sides.

GRAIN DOOR.—A partition placed across the door of a car loaded with grain.

GRAIN ELEVATOR.—A storehouse for grain erected on the lines of carriers.

GROSS TON.—2,240 pounds.

GROSS WEIGHT.—The weight of a container and its entire contents, or the weight of a car and its contents.

H

HARBOR.—A port where ships may dock or anchor.

HOPPER CAR.—A special car built for handling coal, gravel, etc., shaped like a hopper, with an opening to discharge the contents.

I

ICING CHARGE.—A charge for ice placed in refrigerator cars.

IMPORT.—To bring freight from a foreign country.

INDIVIDUAL TARIFF.—A tariff issued by a carrier in his own name.

INFORMAL COMPLAINT.—(a) A complaint filed with the Interstate Commerce Commission, which does not require a formal hearing. (b) A complaint filed with the Interstate Commission by the carrier for the complainant, carrier and complainant being in agreement.

INITIAL CARRIER.—The line at which a consignment is delivered at point of shipment.

INTERCHANGE TRACK.—A track on which freight is interchanged by transportation lines.

INTERLINE FREIGHT.—Shipment moving over two or more lines.

INTERLINE WAYBILL.—A waybill covering the movement of freight over two or more lines.

INTERMEDIATE CARRIER.—A line over which a shipment moves other than the initial or delivering line.

INTERMEDIATE POINT.—A point located between two other points named in a tariff.

INTERSTATE TRAFFIC.—Traffic moving from one state to any other state, from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation takes place within the United States.

INTERMEDIATE SWITCHING.—Switching performed by the road handling a car from one railroad to another railroad, the service performed being within the designated switching limits and on a switching charge.

INTERVENE.—To interpose in a complaint so as to become a party to it.

INTRASTATE.—Within the borders of a state.

INTRA-TERMINAL SWITCHING.—A car loaded within the switching limits for unloading within the same switching limits.

ISSUING CARRIER.—The carrier publishing a tariff or signing a bill of lading.

J

JOINT AGENT.—One who has power to act for two or more carriers.

JOINT COMBINATION RATE.—A rate which is obtained by adding together factors published in the same tariff.

JOINT RATE.—A rate participated in by two or more carriers.

JOINT THROUGH RATE.—A joint rate published as a unit.

JOINT TRAFFIC.—Traffic in the handling of which two or more carriers participate.

JUNCTION POINT.—A point where railroads meet or intersect. See Gateway.

K

KNOCKED DOWN.—Meaning an article is taken apart, or pressed down flat, as paper boxes.

L

LADING.—The freight in a car.

LAND GRANT.—Land given to railroads by States or the U. S. Government.

LAND GRANT RATE.—A rate applicable to government traffic on railroads having received Land Grants.

LAWFUL RATE.—A rate covered by a tariff on file with the Interstate Commerce Commission which is the only rate that can be lawfully used on interstate traffic.

LAY DAYS.—Free time accorded for loading or unloading lighters.

LESS THAN CARLOAD.—The quantity of freight the weight of which is less than that required for the application of the carload rate.

LESS THAN CARLOAD RATE.—The rate applicable to less than carload shipments.

LIGHTER.—A flat-bottom boat, either self-propelled or towed by a tug.

LIGHTERAGE.—(a) The charge made for carrying freight on lighters. (b) The service of moving freight by means of lighters.

LIGHTERAGE LIMITS.—The limits of a port or harbor within which freight is handled in accordance with the provisions of a tariff either with or without charge.

LINE HAUL.—Transportation between points on the same line.

LIVE STOCK CONTRACT.—A bill of lading issued by carriers on receipt of shipments of live stock.

LOCAL RATE.—A rate applicable between points on the same line.

LOCAL TRAFFIC.—Traffic between stations on the same line.

LONG-AND-SHORT-HAUL CLAUSE.—A clause contained in the Fourth Section of the I. C. Act prohibiting charging more for a shorter than a longer distance on the same route in the same direction, the shorter being included in the longer distance.

LONG TON.—2,240 lbs.

LOOSE.—Not confined or attached.

M

MARKED CAPACITY.—The weight carrying capacity of a car marked thereon.

MARKS.—Symbols or characters placed on packages for purpose of identification.

MEMORANDUM BILL OF LADING.—A duplicate of a bill of lading.

MILEAGE RATES.—Rates made according to distance.

MILEAGE TARIFF.—A Tariff containing mileage rates.

MILLING IN TRANSIT.—A privilege accorded shippers by carriers of stopping shipments of grain, lumber, etc., while in transit for the purpose of milling.

MINIMUM CHARGE.—The lowest charge for transporting a shipment.

MINIMUM CARLOAD WEIGHT.—The least weight which will entitle a shipment to the application of the carload rate.

MIXED CARLOAD.—A carload of different articles from one shipper to one consignee.

MIXED C. L. RATE.—A rate applicable to a mixed carload.

N

NEGLIGENCE.—Omission to use that care which the law under the circumstances requires.

NESTED.—To place articles one inside another.

NET TON.—2,000 lbs.

NET WEIGHT.—Weight of contents of a package or car.

O

OPERATING EXPENSE.—The cost of the actual handling of traffic.

OVERCHARGE.—An illegal freight charge.

OVER FREIGHT.—Freight without marks of identification.

P

PACKAGE CAR.—A car loaded with less than carload shipments from a distant point.

PACKAGE FREIGHT.—Less than carload shipments.

PACKING LIST.—A detail statement of the contents of a package.

PANAMA CANAL ACT.—An act of Congress relating to transportation via the Canal.

PARTICIPATING CARRIER.—A carrier that files a concurrence with the Interstate Commerce Commission agreeing to a tariff published by another carrier or an agent.

PEDLER CAR.—A car forwarded by one consignee or loaded with less than carload shipments for distribution along a certain route.

PER.—(a) By. (b) By means of.

PER CENT.—By the hundred.

PER DIEM.—By the day.

PER DIEM CHARGE.—A daily charge made by one railroad to another for use of its cars.

PERISHABLE FREIGHT.—Property from its nature subject to speedy decay or deterioration.

PIER.—A projecting wharf.

PIPE LINE.—A line or conduit of pipe, sometimes many hundred miles long, through which petroleum is conveyed from an oil region to a market or reservoir.

POINT OF ORIGIN.—The starting point of a shipment.

PORT.—See Harbor.

PORT OF ENTRY.—A place designated by law at which a Custom House is located and where goods are received from foreign countries.

PORT-TO-PORT.—From one port to another.

POTATO CAR.—A special car used for transporting potatoes.

POWER OF ATTORNEY.—Authority that one party gives to another to act for it.

PREPAID.—A term used denoting charges have been paid.

PREPAY STATION.—A station to which shipments must be prepaid.

PRIVATE CARRIER.—An individual or company that transports property by special agreement.

PRIVATE SIDING.—A side track owned or leased by an industry on which cars are placed for loading and unloading.

PROHIBITED ARTICLES.—Articles that will not be handled.

PRO.—Freight bill.

PRO. NUMBER.—Freight bill number.

PROPORTIONAL RATE.—As defined by the Interstate Commerce Commission, it is a rate which applies to part of a through transportation which is entirely within the jurisdiction of the Interstate Commerce Act; such proportional rate is used to determine through charge on combination when no specific rate is in effect.

PROPORTIONAL TARIFF.—A Tariff containing proportional rates.

PUBLIC SERVICE COMMISSION.—A state body having control of state public utilities.

PUBLISHING AGENT.—A person authorized by carriers to publish tariffs for them.

R

RAIL-AND-WATER.—Transportation partly by rail and partly by water.

RATE BASES.—The bases used in constructing rates.

RATE VALUATION.—A rate based on a stated valuation.

RECONSIGNMENT.—See Diversion.

RECOOPERED PACKAGES.—Barrels or boxes that have been mended or patched.

REFRIGERATION.—Protection of freight with ice.

REFRIGERATOR CAR.—A special car equipped with an ice chamber or cooling device for transporting perishable freight.

REFUSED FREIGHT.—Freight the acceptance of delivery of which is refused.

REGARDLESS OF QUANTITY CAR.—A car forwarded daily to certain points regardless of the quantity of freight received.

RELEASED.—Liability limited.

REPARATION.—The making of amends for an unjust or unreasonable charge.

REPARATION CLAIM.—A complaint filed with the Interstate Commerce Commission alleging the complainant has suffered loss through the assessment of an unreasonable or discriminatory rate or charge.

RESTRICTED ARTICLES.—Articles handled only under specified conditions.

ROUTE.—(a) The course a shipment moves from one point to another. (b) To specify the lines via which a shipment shall move.

ROUTING.—Naming the lines via which a shipment shall move.

S

SAILING DAY.—A term used by carriers to designate days on which freight destined to certain points will be received.

SEALS.—See Car Seal.

SET UP.—Meaning the article is complete and not taken apart.

SHIPPER'S LOAD AND COUNT.—A term meaning the contents of a car has not been verified by the carrier.

SHIPPER'S LOAD, WEIGHT AND COUNT.—A term meaning the weight was furnished by shipper and neither weight nor contents of car have been verified by the carrier.

SHIPPING ORDER.—A document containing shipping instructions for goods forwarded, usually a duplicate or triplicate copy of the bill of lading.

SHIPPING PERMIT.—Authority issued by a carrier permitting the acceptance of goods for forwarding.

SHORTAGE.—The deficiency in the quantity of a shipment.

SHORT OF DESTINATION.—Before reaching destination.

SIDE TRACK.—A railway track by the side of the main track, or another track, connected with it at one end or both ends.

SPECIAL SERVICE TARIFF.—A tariff containing charges and rules governing switching, storage, demurrage, diversion, etc.

SPOTTING.—Placing of cars for loading or unloading.

STANDARD FORMS.—Approved forms adopted for general use.

STANDARD ROUTE.—Line or lines having the direct route between points.

STATION ORDER CAR.—A car loaded with less than carload shipments in station order for delivery along the same route.

STATUTE OF LIMITATION.—A law limiting the time for filing claims or instituting suits.

STATUTORY NOTICE.—The period of time required by law for notices of changes in tariffs.

STORAGE.—(a) A charge made by carriers for holding freight on their premises beyond the free time period. (b) The charge assessed for holding goods in a public warehouse.

SUPPLEMENT.—An addition to a tariff containing changes.

SWITCH.—(a) A device for moving a small section of track so that cars may be run from one track onto another. (b) To move cars from one place to another within switching limits.

SWITCHING.—The transferring of cars from one point to another within switching limits.

SWITCHING LIMITS.—The designated limits of the area within which cars are moved subject to a switching tariff.

T

TANK CAR.—A special car constructed like a large tank for the purpose of transporting oil in bulk.

TARE WEIGHT.—The weight of a container or car exclusive of contents.

TARIFF.—A schedule of charges made by a transportation company and containing the rules governing their application.

TARIFF CIRCULAR.—A circular issued by the Interstate Commerce Commission containing

rules governing the construction and publishing of tariffs.

TEAM TRACK.—A track on which cars are placed by railroads for the purpose of loading and unloading.

TERMINAL.—A railroad station.

TERMINAL CHARGE.—A charge for use of terminal facilities or for the handling of freight.

TERMINAL SWITCHING.—(a) The movement of a car by the road on whose rails a car, received from a connecting line loaded is unloaded. (b) A car loaded and delivered to a connecting line destined to a point beyond the switching limits, the service performed being within switching limits.

THROUGH RATE.—A rate applicable from point of shipment to destination.

TONNAGE.—The number of tons of freight handled.

TRACK STORAGE.—A charge assessed by some carriers in addition to the regular demurrage charge on cars held beyond the free time.

TRACE.—To endeavor to locate an overdue shipment.

TRACER.—A letter requesting a carrier to locate a shipment and advise delivery.

TRAFFIC.—The business of transportation.

TRANSIT PRIVILEGE.—A service granted on a shipment en route such as milling, cleaning, etc., in accordance with tariff provisions.

TRANSPORT.—To convey from one place to another.

TRANSPORTATION.—The carriage of commodities from one place to another.

TRAP CAR.—See Ferry Car.

TRUCKMAN.—One who transports goods by trucks.

TUGBOAT.—A small powerful steamboat used to tow lighters, floats, or other boats.

U

UNCLAIMED FREIGHT.—Freight uncalled for by consignee, caused principally by incorrect consignment, street address being omitted.

UNDERCHARGE.—To charge less than the correct amount.

V

VENTILATED CAR.—A special car equipped with openings to admit air.

VIA.—By way of.

W

WAYBILL.—A document prepared by carrier at the point of shipment, showing the point of origin, destination, route, consignor, description of shipment, rate and amount of charges, and forwarded with the shipment or by mail to the Agent at the transfer point or destination.

WHARFAGE.—The charge made for docking a lighter at a pier or bulkhead.

WHARFAGE, TOP.—The charge for the privilege of unloading freight on a pier or bulkhead.

Y

YARDS, FREIGHT.—A portion of ground on which tracks are laid adjacent to a railroad terminal, used for making up trains, for storing of cars, and for similar purposes.

NATIONAL CODE OF RULES GOVERNING THE WEIGHING AND RE-WEIGHING OF CARLOAD FREIGHT

The American Railway Association has adopted the code of rules governing the weighing and re-weighing of carload freight reported by its Weighing Committee, and recommends that it be made generally applicable on interstate traffic. These rules have been considered and approved by the National Industrial Traffic League. The Interstate Commerce Commission, recognizing the great benefits to be derived from uniformity in weighing and re-weighing rules, is desirous of lending its influence to the movement. The Commission, therefore, indorses the rules governing the weighing and re-weighing of carload freight adopted by the American Railway Association, and recommends that they be made effective on interstate transportation throughout the country.

This action, of course, is subject to the right and duty of the Commission to inquire into the legality or reasonableness of any rule or rules which may be made the subject of complaint.

By the Commission.

[SEAL] **GEORGE B. MCGINTY,**
Secretary.

WASHINGTON, D. C., June 9, 1914.

These rules do not change or amend the rules, minimum weights or estimated weights provided in tariffs or the classifications governing the tariffs, nor the rules and regulations of the individual lines as filed with the Interstate Commerce Commission.

Rule 1. Supervision of Scales

When weights obtained on railroad or private scales are used for the assessment of freight charges, such scales shall be maintained, tested and operated in accordance with the Track Scale Specifications and Rules approved by The American Railway Association.

Rule 2. Weights—By Whom Ascertained

Weights should be ascertained by competent employes after proper instruction and under proper supervision.

Rule 3. Weights—How Ascertained

SECTION A. When track scale weights are used for the assessment of freight charges,

weighing must be done by or under the supervision of the carriers or their representatives or under properly supervised weight agreements.

SEC. B. Cars may be weighed at rest:

(1) When uncoupled and free at both ends.

(2) When coupled at one end and free at the other end, only at points where the scale rails are level and approach rails level for a distance of 50 feet, and when the scales are kept in first class condition.

SEC. C. Cars may be weighed in motion, only when uncoupled and free at both ends and alone, upon scales properly designed for weighing in motion and in charge of a competent weighmaster.

SEC. D. Cars loaded with long material extending from one car to another may be weighed coupled at rest. They may also be weighed coupled in motion on scales of sufficient length to properly weigh together the cars so coupled.

SEC. E. When the actual tare of a car has been ascertained immediately before loading, it shall be used in lieu of the marked tare, except as provided in Section F.

SEC. F. If a loaded car upon arrival at destination is weighed and the actual tare is ascertained after the entire lading of the car has been removed including all packing and the debris resulting from that lading, it shall be used in lieu of the marked tare. If the car is reloaded by the consignee, actual tare obtained in like manner may be used.

SEC. G. The marked tare should be used to arrive at the net weight of the load, except as provided in Sections E and F of this rule.

Rule 4. Weights—Where Ascertained

Carload freight should be weighed at point of origin, or as near thereto as practicable.

Rule 5. When Cars May Be Re-weighed

SECTION A. When the lading has been transferred enroute, where car has met with an accident, or where for other reasons there is evi-

dence of loss in transit, the carriers will, when practicable, re-weigh the car.

SEC. B. Carload freight may also be re-weighed en route or at destination for the information of the interested carriers and to test the accuracy of the previous weighings. (See Rule 8.)

SEC. C. When request is made by consignor or consignee for the re-weighing of any car, such re-weighing shall be done, whenever practicable, the car to be weighed again if necessary—subject to Rule 9.

Rule 6. Notification

Upon request the consignor will be furnished with the gross, tare and net weights and all changes made therein.

Rule 7. Information to Be Shown on Scale Record, Weight Certificate, Way-bill, Freight-bill, Etc.

SECTION A. A record should be kept at each track scale showing the gross, tare (whether actual or stenciled), and net weight; the date and time of weighing; the condition of the weather; whether weighed at rest or in motion; coupled at one or both ends or uncoupled; when actual tare is used, estimated amount of debris in the car.

SEC. B. The point at which car is weighed and the gross, tare and net weights will be noted in ink or indelible pencil or regular way-bill and slip-bill or card-bill. When actual tare is used instead of marked tare it should be so specified (see Rule 3.) The method of ascertaining the weight should also be specified as Railroad Scale, Weighing Bureau, Shippers', Tariff Classification or Agreement Weight. This information must also be shown on transfers to connecting line, on correction sheets when issued, carried on way-bills to destination, and shown on freight bills.

SEC. C. When track scales are equipped with registering or recording device and sticker form of scale tickets is used, said tickets may be used in same manner as provided above and if space is provided thereon, the information shown in Section A will be added.

SEC. D. Where side cards are provided for the purpose, weights should be endorsed thereon.

SEC. E. In case agent at point of origin receives request from consignor for the result of weighing or re-weighing, proper notation should be made on billing accompanying the car to destination (see Rule 6).

SEC. F. Where weights are obtained for billing purposes under weight agreements, which do not provide for use of the gross and tare weights, the gross and tare weights need not be shown as provided in Sections B, C and D.

Rule 8. Weights to Govern and Tolerance*

SECTION A. Where carload freight, the weight of which is not subject to change from its inherent nature, is check-weighed or re-weighed enroute or at destination, no correction will be made in the billed weight except as provided below:

SEC. B. If the difference between the original net weight and the weight obtained by re-weighing does not exceed the tolerance provided in this rule, the first weight will not be changed. If such difference exceeds the tolerance, the car should be weighed a third time if practicable. If the third weighing confirms the original weight within the tolerance no change shall be made. Where the original weight cannot be applied as above, the lower of the second or third weights shall be used where the difference between the second and third weight does not exceed the tolerance.

SEC. C. In deciding between weights obtained on track scales as to which is the more correct, all of the conditions under which the several weighings were done must be taken

* **Tolerance** is the difference in weights due to variation in scales or weighing, which may be permitted without correction of the billed weight.

(a) The tolerance shall be one per cent (1%) of the lading, with a minimum of 500 pounds, on all carload freight, including coal and coke, except that when ashes, cinders, clay, dolomite, ganister, gravel, mill-scale, ore, sand, slag, all stone (not cut), and similar bulk freight, brick and soft drain tile are loaded in open cars, the tolerance shall be one per cent (1%) of the lading with a minimum of 1,000 pounds.

(b) Weights of commodities subject to shrinkage in weight from their inherent nature, properly obtained at or near point of origin, should not be changed, except as provided for in the tariffs of the carriers. If obvious error is discovered, each case should be dealt with upon its individual merits and report made to the originating carrier with all the facts.

Note.—Tolerance on coal and coke does not include difference in weight due to evaporation which shall be determined and published in initial carrier's tariff.

into consideration, including the class of scale, condition how recently tested, the manner of weighing, whether car was at rest or in motion, coupled or uncoupled, actual or stenciled tare used, the time of weighing, weather conditions and the reliability of the weigher, giving precedence to that weight obtained under the best conditions.

SEC. D. The consignor or consignee shall be permitted to show the actual weight of any carload shipment either by means of shipper's authenticated invoice or by weighing the entire load on platform scales, or by so weighing a proper portion of uniform or standard weight articles (not less than ten (10) per cent of the lading), weighing to be performed under supervision of the carrier; provided such total weight includes all blocking, packing and debris resulting from the lading in question. This actual weight will be used to determine freight charges (subject to weight agreements if applicable), provided the difference in weight exceeds the tolerance.

Rule 9. Charges for Weighing and Re-weighing

SECTION A. When weights are obtained for the assessment of freight charges, no charge will be made by the carrier for the service.

SEC. B. When a car is weighed or re-weighed, either empty or loaded, at request of either consignor or consignee, the service and charges will be in accordance with conditions named below, subject to the rules and carload minimum weights prescribed in tariffs and classifications.

SEC. C. When a shipper or consignee requests that a car containing a commodity which is not subject to shrinkage from its inherent nature be re-weighed, this service, wherever practicable, will be performed by the carrier without charge, provided such re-weighing discloses error in the billed weight of more than the tolerance provided in Rule 8. When a car contains a commodity which is subject to shrinkage from its inherent nature, no charge will be made if the billed weight is changed, as per Rule 8, Section F.

SEC. D. When a car is weighed or re-weighed either empty or loaded at request of either consignor or consignee, a charge will be

made each time car is weighed: (except as provided in Section C.)

(1) On private scales located at the industry \$..... per car.

(2) On other private scales, conveniently located \$..... per car.

(3). On railroad company's scales, conveniently located \$..... per car.

Note.—The parties desiring the weighing done must make their own arrangements with the owners of the scales for their use; the charge of \$..... covers only the weighing service performed by the carrier.

SEC. E. When inbound freight is weighed or re-weighed by a switching line (not participating in the freight rate) the above charges will be assessed, regardless of any variation in weights, and will be in addition to the regular switching charge. If no change is made in billed weight, the charge will be against the party or road requesting weighing; when change is made in billed weight the charge will be made by the switching line against the delivering road.

SEC. F. When carload shipments which are provided for in classification and tariffs at fixed or estimated weights are re-weighed at the request of consignor or consignee the above charges will be assessed, regardless of any variation in weight.

SEC. G. Where carload shipments are billed at minimum carload weight and are re-weighed on request of consignor or consignee, the above charges will be assessed, unless the variation in the weight increases the freight charges.

Rule 10. Weight Agreements

SECTION A. When shippers' weights of property are accepted and applied by the carriers under weight agreements, properly supervised, such weights should be designated in the prescribed manner on way-bills, shipping tickets, bills of lading, or weight certificates (see Rule 7, Section B), and the property should not be re-weighed, except as provided in Rule 5. Proper supervision means checking of the records of the shipper by the authorized representative of the carrier to verify the weights and descriptions furnished, and the weighing of a sufficient number of cars for verifications.

SEC. B. When investigation, through examination of the shippers' records or by re-

weighing, discloses error in weights or description shown on original billing the charges shall be adjusted to the proper basis, and notice of such change shall in all cases be transmitted to the interested carriers or their representatives.

SEC. C. Forms of weight agreement suitable to the character of the business tendered for transportation shall embrace the following general principles and copies thereof shall be filed with the Interstate Commerce Commission. The agreements shall be in writing and provide that:

(1) The shipper shall report and certify correct gross weights (except where estimated weights are provided in tariff or classifications), and correct description of commodities on shipping tickets, bills of lading or weight certificates and correct gross tare and net weights when obtained on track scales, where such weights are used for billing purposes.

(2) The shipper shall allow the authorized representative of the carrier to inspect the original weight sheets, books, invoices and records necessary to verify the weights and description of the commodities certified in the shipping tickets, bills of lading or weight certificate.

(3) The shipper shall promptly pay to the authorized representative of the carrier bills for all undercharges resulting from the certification of incorrect weights or improper description.

(4) When weights of uniform or standard weight articles are based upon averages, the shipper shall give prompt notice to the authorized representative of the carrier when any change is made in the package or material used which will affect the weight arrived at by use of the average.

(5) The shipper shall keep in good weighing condition any and all scales used in determining weights and have track scales tested, maintained and operated in accordance with the Track Scale Specifications and Rules approved by The American Railway Association and shall allow the authorized representative of the carrier to inspect and test them.

(6) The agreement may be canceled by ten days' notice in writing to either party.

(7) All shipments made under the agreement will be subject to rates and charges prescribed by classifications, tariffs or rules of the carriers interested.

THE ROUTING SHEET

The Interstate Commerce Commission has ruled that it is the right of shippers to forward their shipments over the routes they may designate, provided the rates quoted are applicable. When shipments are routed by shippers the carriers must respect this routing, except when tariffs of the initial line dictate the immediate routing; that is, rates are not applicable except over routes specifically named in the tariffs.

In order to facilitate the handling of traffic, large traffic departments should have prepared for the guidance of their shipping department a *routing sheet*, the method of preparation being governed by the volume of the traffic.

Specimen Routing Sheet.—The following specimen Routing Sheet, with the Key, was prepared by the traffic department of one of the largest industries in this country, which forwards and

receives freight to and from almost every state, and also has a large foreign commerce. The traffic manager prepares sheets covering the traffic from its principal factories to practically all of the states, a separate routing sheet being made for each state. The specimen routing sheets A and B are applicable to the State of Michigan.

Keys.—The Keys furnished are applicable only to traffic from New York, but the Routing Sheet contains symbols designating the routes from their various plants, a separate Key, or Keys, being provided for each branch, for traffic forwarded from the point at which it is located. The Keys from the respective points of shipment are applicable to all traffic therefrom forwarded to any point in the United States, but a Routing Sheet must be prepared for each state.

NEW YORK ROUTING KEY—EAST

Route Letter	Freight Routing
1	Erie RR
1a	Erie RR
1b	Erie RR c/o GT
1c	Erie RR c/o NYC&StL
1d	Erie RR c/o PM
2	DL&W
2a	DL&W c/o Wab
2b	DL&W c/o Lack Line
2c	DL&W c/o GT
2d	DL&W c/o PM
2m	DL&W c/o NYC
2p	DL&W c/o D&B SB Co at Bflo
2q	DL&W c/o C&BT Co
2t	DL&W c/o MC
3	PRR
3a	PRR c/o SUL
3b	PRR c/o Emp Line c/o D&C Nav Co
3c	PRR c/o SUL c/o IC
3d	PRR c/o Can Sou Line
3f	PRR c/o Emp Line
3g	PRR c/o Atl Coast Desp
3h	PRR c/o Seaboard Desp
3i	PRR c/o East & Sou Desp

Route Letter	Freight Routing
3k	PRR c/o Sou Ry
3m	PRR c/o N&W
3n	PRR c/o C&O
3p	PRR c/o NS
3q	PRR c/o Rich-Wash Line
3u	PRR c/o SAL c/o D&S
3v	PRR c/o Vir Ry
4	NYC
4a	NYC
4b	NYC
4c	NYC
4d	NYC
4e	NYC c/o Can Sou Line
4w	NYC c/o MDT Co c/o LE&W
4x	NYC c/o Great Lakes Transit Co.
5	WS
5a	WS c/o Wab
5b	WS c/o NYC
5c	WS c/o MC
5d	WS c/o GT
5e	WS c/o NYC&StL
6	NYNH&H (Pier 37, E R)
7	NYNH&H (Pier 39, E R)

FREIGHT TRAFFIC GUIDE

Route Letter	Freight Routing	Route Letter	Freight Routing
8.....	CRR of NJ c/o P&R	27c.....	Clyde Line c/o Sou Ry
9.....	CRR of NJ	27d.....	Clyde Line c/o GS&F
10.....	B&O	27m.....	Clyde Line c/o Chas FF Line c/o M&O
10a.....	B&O c/o Cont Line	27t.....	Mallory Line c/o AB&A at Bruns
11.....	LV	30.....	Ocean SS Co
11a.....	LV c/o Traders Desp	30a.....	Ocean SS Co c/o ACL
11b.....	LV c/o NYC	30b.....	Ocean SS Co c/o SAL
11c.....	LV c/o Wab	30k.....	Ocean SS Co c/o C of Ga
11d.....	LV c/o MC	34.....	CV
11e.....	LV c/o GT	34a.....	CV c/o Natl Desp
11f.....	LV c/o PM	35.....	Hudson Nav Co
11g.....	LV c/o NYC&StL c/o CI&L	36.....	Joy Line
11p.....	LV c/o Great Lakes Transit Co	38.....	Bridgeport Line
11q.....	LV c/o C&B Trans Co	39.....	Fall River Line
12.....	NYO&W	40.....	Hartford Line
12a.....	NYO&W c/o Ont Cent Desp	41.....	Met SS Co
13.....	NYC c/o D&H	41b.....	Met SS Co c/o GT
14.....	Long Isl	41c.....	Met SS Co c/o MC
15.....	Staten Isl RT Co	42.....	Met SS Co
16.....	CRR of NJ c/o BRD	43.....	New Bedford Line
17.....	CRR of NJ c/o CSD	44.....	New Haven SB Line
18.....	CRR of NJ c/o Sou States Desp	45.....	Norwich Line
20.....	NY&NJ SB Co	46.....	Providence Line
21.....	Truck	47.....	Blackstone Valley Trans Co
25.....	ODT Co	48.....	Ben Frank Trans Co
25a.....	ODT Co c/o ACL	50.....	Morgan Line
25b.....	ODT Co c/o SAL	51.....	Mallory Line
25c.....	ODT Co c/o PAL	52.....	Hudson Nav Co
25d.....	ODT Co c/o VT&G	53.....	Cent-Hud SB Co
25e.....	ODT Co c/o N&W Desp	54.....	Saugerties Line
25f.....	ODT Co c/o CGD	56.....	Catskill Line
25g.....	ODT Co c/o KD	57.....	Morton Line
25h.....	ODT Co c/o PAL c/o TC	59.....	North River SB Co (Str Raleigh)
25i.....	ODT Co c/o N&W	62.....	Merchants SB Co
25j.....	ODT Co c/o C&O	63.....	Middlesex Trans Co
25k.....	ODT Co c/o PAL	66.....	Chelsea Line
25m.....	ODT Co c/o ACL c/o A&WP c/o M&O	67.....	Merchants Stamford Line
25p.....	ODT Co c/o ACL c/o A&WP	69.....	Merchants Bridgeport Line
25s.....	ODT c/o NS	70.....	NE&T Co
25u.....	ODT Co c/o NS	71.....	Colonial Nav Co
25v.....	ODT Co c/o Vir Ry	72.....	Thames River Line
27.....	Clyde Line	73.....	Inland Waterways SS Co
27a.....	Clyde Line c/o ACL	74.....	Patten Line
27b.....	Clyde Line c/o SAL	75.....	Lower Hudson SB Co

ERRATA, PAGE 17

The following lines are to be used in place of their counterparts on this page to correct typographical errors:

G.....LV c/o NYC&StL c/o CM&StP at
GU.....LV c/o NYC&StL c/o CM&StP at
ML.....Mallory Line
SO.....LVc/oNYC&StL c/o Soo Line at Chgo



NEW YORK ROUTING KEY—WEST

Route Letter	Freight Routing	Route Letter	Freight Routing
A.....	LV c/o NYC&StL c/o CB&Q at StL	JX.....	DL&W c/o PM via Mackinaw City
AA.....	LV c/o NYC&StL c/o CB&Q at Chgo	K.....	LV c/o NYC&StL c/o MK&T at StL
B.....	LV c/o NYC&StL c/o CB&Q at StL c/o Nor Pac at Billings	L.....	LV c/o NYC&StL c/o StL&SF at StL
C.....	LV c/o NYC&StL c/o C&A	LA.....	LV c/o NYC&StL c/o "Across the Lake"
CB.....	LV c/o NYC&StL c/o StLSW at StL	LE.....	LV c/o NYC&StL c/o Mo Pac at StL
CC.....	LV c/o NYC&StL c/o CB&Q at Chgo c/o Nor Pac	LL.....	LV c/o NYC&StL c/o Frisco at StL
CP.....	New Haven Line c/o CP Desp	LM.....	LV c/o NYC&StL c/o Mo Pac at StL
D.....	LV c/o NYC&StL c/o CB&Q at Chgo c/o Great Nor	LR.....	LV c/o NYC&StL c/o CRI&P at StL
DB.....	LV c/o NYC&StL c/o CB&Q at StL c/o Grt Nor at Billings	LS.....	LV c/o NYC&StL c/o AT&SF at Chgo
E.....	LV c/o NYC&StL c/o Mo Pac at StL	M.....	Morgan Line
ER.....	LV c/o NYC&StL c/o CRI&P at St L	MG.....	Morgan Line c/o I&GN
ES.....	LV c/o NYC&StL c/o Mo Pac at StL c/o AT&SF at Kan City	MH.....	Morgan Line c/o GH&H
EU.....	LV c/o NYC&StL c/o Mo Pac at StL c/o Union Pac at Kan City	MK.....	Morgan Line c/o MK&T
F.....	LV c/o NYC&StL c/o C&NW at Chgo	ML.....	Mallery Line
FU.....	LV c/o NYC&StL c/o C&NW at Chgo c/o Union Pac at Omaha	MM.....	Morgan Line
G.....	LV c/o NYC&StL c/o CN&StP at Chgo	MR.....	Morgan Line c/o LR&N at N O
GT.....	LV c/o NYC&StL c/o Goodrich Trans Co	MS.....	Morgan Line c/o GC&SF
GU.....	LV c/o NYC&StL c/o CM&STP at Chgo c/o Union Pac at Omaha	MV.....	Morgan Line c/o T&B
H.....	LV c/o NYC&StL c/o CGW at Chgo	MX.....	Morgan Line c/o Tex Mid
I.....	LV c/o NYC&StL c/o IC at Chgo	N.....	DL&W c/o Lack Line
IM.....	LV c/o NYC&StL c/o StL IM&S at St L	R.....	LV c/o NYC&StL c/o CRI&P at Chgo
J.....	DL&W c/o Wab	RR.....	LV c/o NYC&StL c/o CRI&P at StL
		RU.....	LV c/o NYC&StL c/o CRI&P at Chgo c/o Union Pac
		S.....	LV c/o NYC&StL c/o AT&SF at Chgo
		SL.....	LV c/o NYC&StL c/o CB&Q at Chgo c/o D&RG c/o SPLA&SL
		SO.....	LV c/o NYC&StL c/o See Line at Chgo
		SW.....	LV c/o NYC&StL c/o StLSW at StL
		TC.....	Texas City SSCO
		V.....	Clyde SS C c/o VT&G c/o VS&P at Vicksburg
		X.....	LV c/o NYC&StL c/o Mo Pac at StL c/o D&RG c/o West Pac

ROUTING ORDER A—TO SPECIFIC POINTS IN MICHIGAN

TO MICHIGAN		FROM							
TOWN	COUNTY	New York	Balti-more	Rich-mond	Reids-ville	Dur-ham	Louis-ville	Nash-ville	Mil-waukee
Adrian.....	Lenawee.....	2a	10	2a	2k	2s	4b	18	30
Alma.....	Gratiot.....	2c	3j	2x	2k	2x	25	18	25
Alpena.....	Alpena.....	2d	3x	2x	2k	2x	25	18	25
Ann Arbor.....	Washtenaw.....	2t	3j	2q	2k	2q	31	18	29
Bad Axe.....	Huron.....	11f	3x	2x	2k	2x	25	18	25
Battle Creek.....	Calhoun.....	2t	10	2z	2k	2z	29	18	29
Bay City.....	Bay.....	11f	3x	2x	2k	2x	31	18	25
Benton Harbor.....	Berrien.....	2d	3x	2h	2h	2h	4	18	31
Big Rapids.....	Mecosta.....	2d	3a	2i	2k	2i	3r	18	25
Buchanan.....	Berrien.....	2t	10	2t	2k	2t	31	18	31
Cadillac.....	Wixford.....	3a	3a	2i	2k	2i	3r	18	29
Calumet.....	Houghton.....	F	F	F	F	F	F	F	GR
Charlotte.....	Eaton.....	2t	10	2z	2k	2z	29	18	29
Cheboygan.....	Cheboygan.....	2t	10	2t	2k	2t	31	18	25
Coldwater.....	Branch.....	4	4	2s	2k	2s	30	18	30
DETROIT.....	Wayne.....	2a	3	2t	2k	2t	31	31	29
Escanaba.....	Delta.....	F	F	F	F	F	F	F	F
Flint.....	Genesee.....	11f	3x	2x	2k	2x	29	18	29
Grand Rapids.....	Kent.....	2d	3a	2i	2k	2i	3r	18	129a
Greenville.....	Montcalm.....	2d	3x	2x	2k	2x	29	18	25
Hancock.....	Houghton.....	F	F	F	F	F	F	F	GR
Hillsdale.....	Hillsdale.....	4b	4	2s	2k	2s	30	18	30
Holland.....	Ottawa.....	2d	3x	2x	2k	2x	25	18	25
Houghton.....	Houghton.....	F	F	F	F	F	F	F	GR
Iron Mountain.....	Dickinson.....	G	G	G	G	G	G	G	G
Iron River.....	Iron.....	F	F	F	F	F	F	F	F
Ironwood.....	Gogebic.....	F	F	F	F	F	F	F	F
Ishpeming.....	Marquette.....	F	F	F	F	F	F	F	F
JACKSON.....	Jackson.....	2t	3y	2s	2k	2s	4	18	29
KALAMAZOO.....	Kalamazoo.....	2t	3a	2i	2k	2i	3r	18	31
Lansing.....	Ingham.....	2t	3y	2z	2k	2x	29	18	45
Lapeer.....	Lapeer.....	11e	3y	2t	2k	2t	31	18	29
Ludington.....	Mason.....	2d	3x	2x	2k	2x	25	18	25
Manistee.....	Manistee.....	2d	3x	2x	2k	2x	25	18	25
Manistique.....	Schollcraft.....	JX	JX	JX	JX	JX	SO	SO	SO
Marquette.....	Marquette.....	G	G	G	G	G	G	G	G
Menominee.....	Menominee.....	G	G	G	G	G	G	G	G
Monroe.....	Monroe.....	2d	3	2s	2k	2s	30	18	29
Mt. Clemens.....	Macomb.....	2c	3z	2x	2k	2z	29	18	29
MUSKEGON.....	Muskegon.....	2d	3a	2i	2k	2i	25	18	129
Niles.....	Berrien.....	2t	10	2h	2h	2h	4	18	31
Owasso.....	Shiawassee.....	2c	3j	2q	2k	2q	31	18	29
Petosky.....	Emmett.....	2d	3i	2i	2k	2i	3r	18	25
Pontiac.....	Oakland.....	2c	3z	2z	K	2z	29	18	29
Port Huron.....	St. Clair.....	11f	3z	2z	K	2z	29	18	29
Saginaw.....	Saginaw.....	11f	3x	2x	2k	2x	31	18	26
St. Johns.....	Clinton.....	2c	3z	2z	2k	2z	29	18	29
Sault Ste. Marie.....	Chippewa.....	JX	JX	JX	JX	JX	JX	SO	SO
South Haven.....	Van Buren.....	2t	2y	2t	2k	2t	31	18	31
Sturgis.....	St. Joseph.....	11b	3	2s	2k	2s	3r	18	30
Traverse City.....	Gd. Traverse.....	2d	3a	2i	2k	2x	25	18	25

ROUTING ORDER B—TO POINTS NOT NAMED IN A

To points not given in B, refer to Bullinger's Guide and ascertain name of railroad on which town is located and use route given below for points on that railroad. If town for which shipment is intended is not on a railroad and the order does not show the railroad station at which goods should be delivered, insert the railroad station according to Bullinger's Guide and use route to the railroad point.

Bullinger's Reference Number	RAILROADS	FROM							
		New York	Balti- more	Rich- mond	Reids- ville	Dur- ham	Louis- ville	Nash- ville	Mil- waukee
33	Ann Arbor.....	2a	3j	2q	3k	2q	4	18	25
38	Arcadia & Betsey River.....	2d	3x	2x	2k	2x	25	18	25
117	Boyne City Gaylord & Alpena.....	2t	3y	2t	2k	2t	3r	18	25
234	Chicago Kalamazoo & Saginaw.....	2t	3a	2i	2k	2i	3r	18	25
270	Big Four (C.C.C. & St. L.).....	4d	10	2h	2h	2h	4	18	31
349	Detroit Bay City & Western.....	11f	3x	2x	2k	2x	31	18	25
342	Detroit & Toledo Short Line.....	2c	3a	2z	2k	2z	4	18	29
368	East Jordan & Southern.....	2d	3x	2x	2k	2x	25	18	25
383	Erie & Michigan Ry. & Nav. Co.....	11f	3x	2x	2k	2x	25	18	25
	Grand Trunk.....	2c	3z	2z	2k	2z	29	18	29
557	Kalamazoo Lake Shore & Chicago.....	2t	3a	2t	2k	2t	3r	18	31
664	Ludington & Northern.....	2d	3x	2x	2k	2x	25	18	25
678	Manistee & Northeastern.....	2d	3x	2x	2k	2x	25	18	25
693	Michigan Central.....	2t	3y	2t	2k	2t	31	18	31
805	New York Central.....	4	4	2h	2h	2h	4b	18	30
877	Pennsylvania.....	3	3	6a	6a	2a	3	18c	3
889	Pere Marquette.....	2d	3x	2x	2k	2x	25	18	25
947	Rapid.....	2c	3z	2z	2k	2z	29	18	29
1196	Wabash.....	2a	3a	2y	2k	2y	6	18	6
106	Blaney & Southern (Northern Peninsular)	JX	JX	JX	JX	JX	SO	SO	SO
236	C. M. & St. P.....	G	G	G	G	G	G	G	G
217	C. & N. W.....	F	F	F	F	F	F	F	F
289	Copper Range.....	G	G	G	G	G	G	G	G
352	Duluth South Shore & Atl.....	JX	JX	JX	JX	JX	F	F	F
389	Escanaba & Lake Superior.....	F	F	F	F	F	F	F	F
682	Manistique & Lake Superior.....	JX	JX	JX	JX	JX	SO	SO	SO
706	Mineral Range.....	F	F	F	F	F	F	F	F
711	Soo Line.....	JX	JX	JX	JX	JX	SO	SO	SO
752	Munising Marquette & S. E.....	JX	JX	JX	JX	JX	F	F	F
852	Ontonagon.....	G	G	G	G	G	G	G	G
1260	Wisconsin & Michigan.....	G	G	G	G	G	G	G	G

THE American Railroad Association

NATIONAL CAR DEMURRAGE RULES AND CHARGES

APPROVED BY INTERSTATE COMMERCE COMMISSION
OCTOBER 18, 1919

APPROVED BY THE AMERICAN RAILROAD ASSOCIATION
NOVEMBER 19, 1919

EFFECTIVE DECEMBER 1, 1919

THE AMERICAN ASSOCIATION

OF
MUSICIANS

OF THE
UNITED STATES

AND
CANADA

1900

1901

NATIONAL CAR DEMURRAGE RULES AND CHARGES

RULES

Rule 1. Cars Subject to Rules

Note.—The disposition at point of detention determines the purpose for which a car is held and the rule applicable thereto, except where there is specific tariff provision to the contrary.

SECTION A. Cars of either railroad or private ownership, held for or by consignors or consignees for loading, unloading, forwarding directions, or for any other purpose (including cars held for loading company material unless the loading is done by the railroad for which the material is intended and on its tracks) are subject to these demurrage rules, except as provided in Section B.

SEC. B. The following cars are not subject to these demurrage rules:

1. Cars under load with company material for use of and consigned to the railroad in whose possession the cars are held.

2. Cars under load with live stock. This exemption does not include cars held for or by shippers for loading live stock. Live poultry will not be considered as live stock.

3. Empty cars placed for loading coal at coal mines, coal mine sidings, coal washers, or coke at coke ovens, and such cars under load with coal, at such mines, mine sidings or coal washers, or with coke at coke ovens. This exemption applies only at mines, coal washers and ovens which are subject to car distribution rules in lieu of demurrage rules.

4. (a) Private cars on private tracks when the ownership of the car and track is the same.

Note.—Private cars while held under constructive placement for delivery upon the tracks of their owners are subject to demurrage charges after expiration of forty-eight hours' free time. (See Rules 5 and 6.)

DEFINITIONS

Private Car.—A car having other than railroad ownership. A lease of a car is equivalent to ownership. Private cars must have the full name of the owner or lessee painted or stenciled thereon or must be boarded with full name of owner or lessee. If name of lessee is painted, stenciled or boarded on car then the car is exempt from demurrage for the lessee only. If name of lessee is not painted, stenciled or boarded on car then the car is exempt from demurrage for the owner only.

Private Track.—A track outside of carrier's right of way, yard, and terminals, and of which the carrier does not own either

the rails, ties, roadbed, or right of way; or a track or a portion of a track which is devoted to the purposes of its user either by lease or written agreement.

(b) Empty private cars stored on railroad or private tracks, including such cars sent by the owner to a shipper for loading, provided the cars have not been placed or tendered for loading on the orders of a shipper. (See Rule 6, Section D.)

Rule 2. Free Time Allowed

SECTION A. Forty-eight hours' (two days) free time will be allowed for loading or unloading all commodities. (See Rule 2, Section B, Paragraph 4.)

"LOADING" includes the furnishing of forwarding directions on outbound cars.

"UNLOADING" includes:

(a) Surrender of bill of lading on shipments billed "to order."

(b) Payment of lawful freight charges when required prior to delivery of the car.

(c) Furnishing of a "turn-over" order (an order for delivery to another party) after car has been placed for delivery and no additional movement of the car is made.

When the same car is both unloaded and reloaded, each transaction will be treated as independent of the other. This will also apply to industries performing their own switching service, in which case the industry must notify the carrier, date and time car was unloaded.

When a car held for loading or unloading is moved by railroad or private power to another point in the same yard or industry to complete loading or unloading, only forty-eight hours' free time will be allowed, except that when the railroad makes a charge for such movement the time incident thereto shall not be computed against the car.

(See Rule 7, Note 2.)

Note.—If a consignee wishes his car held at any break-up yard or a hold-yard before notification and placement, such car will be subject to demurrage. That is to say, the time held in the break-up yard will be included within the 48 hours of free time.

If he wishes to exempt his car from the imposition of demurrage he must either, by general orders given to the carrier or by specific orders as to incoming freight, notify the carrier of the track upon which he wishes his freight placed, in which event he will have the full 48 hours free time from the time when the placement is made upon the track designated. This "Note" will apply except when in conflict with Rule 2, Section B, Paragraph 1.

SEC. B. Twenty-four hours' (one day) free time will be allowed:

1. When cars are held for reconsignment, diversion or reshipment, or held in transit on order of consignor, consignee or owner.

Note.—This will not apply to cars subject to Rule 2, Section B, Paragraph 3.

The term "diversion" or "reconsignment" will be applied as defined in the reconsignment tariffs of this railroad, except that under this rule when a car is placed for delivery at destination a "turnover" (or order for delivery to another party) which does not involve an additional movement of the car is not a reconsignment. (See Rule 2, Section A.)

A reshipment is the making of a new contract by which under a new rate the original lading, without being unloaded, is forwarded in the same car to another destination.

2. When cars, destined for delivery to or for forwarding by a connecting line, are held under tariff regulations for surrender of bill of lading or payment of lawful freight charges.

3. When cars are held in transit and placed for inspection or grading, including reconsignment or other disposition orders. At stations where grain and hay must be inspected or graded, the consignee agreeing with the carrier in writing for file at the station, to accept the bulletining of the cars as due and adequate notice of arrival, the bulletins must be posted by 9:00 a. m. of each day, showing the previous twenty-four (24) hours' receipts, and the free time (twenty-four hours) is to be calculated from the first 7:00 a. m. thereafter. Where there is no agreement for bulletining of cars, the free time must be calculated from the first 7:00 a. m. after the day on which notice of arrival is sent or given to the consignee.

EXCEPTION.—At Chicago, Ill., and Kansas City, Kan.-Mo.: On all grain held in transit, subject to Federal or State inspection, and on seeds (field or grass), grain screenings or seed screenings, held in transit, subject to recognized official inspection, free time for disposition will expire at 6:00 p. m. of the day that inspec-

tion is reported by the inspection authorities on or before 11:00 a. m. No additional free time will be allowed for reinspection or appeal. The bulletin form of notice may be used in lieu of written notice of arrival to the consignee.

EXCEPTION.—At St. Paul, Minneapolis, Minnesota Transfer, Camden Place, Duluth, West Duluth, Minn., Superior, Superior East End, Central Ave. (Superior), Allouez or Itasca, Wis.: On all grain subject to Federal or State Grain Inspection received on or before 8:30 a. m., and upon which notice of arrival is given by 9:00 a. m., disposition shall be given not later than 4:00 p. m., the same day, provided inspection is reported to the office of the Federal or State Grain Inspector before 11:00 a. m. When a reinspection is called before disposition is given, one day additional free time will be allowed, provided Local Freight Agent is notified of the call on day of inspection and a change in grade is allowed by the Federal or State Inspector. If no change in grade is allowed demurrage will be assessed, provided disposition is not furnished before 5:00 p. m. of the day car is first inspected. On all cars loaded with grain and inspected (if for inspection) prior to 6:00 p. m., disposition must be given not later than 4:00 p. m. the following day, excepting that where reinspection or appeal is called, and the grade is changed by Federal or State Inspector or Appeal Board, one additional day of free time shall be allowed.

4. Except as otherwise provided in Rule 2, Section A, when cars are held to complete loading, or to partly unload.

Note.—When a car held for unloading is partly unloaded and partly reloaded, 48 hours' free time will be allowed for the entire transaction.

5. On cars containing freight in bond for Customs entry and Government inspection.

SEC. C. Cars containing freight for transshipment to vessel will be allowed such free time at the port as may be provided in the tariffs of the individual carriers lawfully on file with the Interstate Commerce Commission.

Rule 3. Computing Time

Note.—In computing time, Sundays and legal holidays (National, State, and Municipal), but not half holidays, will be excluded, except as otherwise provided in Section A of Rule 9. When a legal holiday falls on Sunday the following Monday will be excluded.

SECTION A. On cars held for loading, time will be computed from the first 7:00 a. m. after

placement on public-delivery tracks and without notice of placement, but if not placed within 24 hours after 7:00 a. m. of the day for which ordered, time will be computed from 7:00 a. m. after the day on which notice of placement is sent or given to consignor. (See Rule 6—Cars for Loading.)

SEC. B. 1. On cars held for orders, surrender of bill of lading or payment of freight charges, whether such cars have been placed in position to unload or not, time will be computed from the first 7:00 a. m. after the day on which notice of arrival is sent or given to the consignee or party entitled to receive same. (See Rule 4—Notification.)

Note.—The time between receipt of order and placement of car (not to include the time attributable to the act or neglect of consignor or consignee) will be deducted from the total detention to the car.

2. Orders for disposition or reconsignment, when mailed, wired or otherwise transmitted by the reconsignor to agent of the carrier at point where cars are held, or to the agent of any carrier named in the bill of lading contract or participating in the transportation transaction, unless otherwise provided by tariff, will release cars at 7:00 a. m. of the date such orders are received by any such agent, provided they are sent or given prior to the date received.

Such orders mailed, wired or otherwise transmitted and received the same date, will release cars at the hour the orders are received by any such agent.

Date of mailing to be determined by the postmark.

Note.—When order releasing a car is sent to this railroad by U. S. mail and the order is not received by the addressee, the car shall be considered released as of date the order should have been delivered, provided proof is furnished by the claimant that the order was deposited in the U. S. mail properly stamped and addressed on the date claimed.

SEC. C. 1. On cars held for unloading, except as otherwise provided in Section B, Paragraph 1, of this rule, time will be computed from the first 7:00 a. m. after placement on public-delivery tracks, and after the day on which notice of arrival is sent or given to consignee or party entitled to receive same. If car is not placed within 24 hours after notice of arrival has been sent or given, time will be computed from the first 7:00 a. m. after the day on which notice of placement has been sent or given to the consignee or party entitled to receive same. (See Rule 4, Sections A and D.)

2. On cars subject to Rule 5, Section B, Paragraph 2, time will be computed from the first 7:00 a. m. after the day on which notice as required by Rule 5, Section B, Paragraph 1, is sent or given to the consignee or party entitled to receive same.

SEC. D. On cars to be delivered on other-than-public-delivery tracks, time will be computed from the first 7:00 a. m. after actual or constructive placement on such tracks. Time computed from actual placement on cars placed at exactly 7:00 a. m. will begin at the same 7:00 a. m.; actual placement to be determined by the precise time the engine cuts loose. (See Rule 4, Section C, and Rules 5 and 6.)

Note 1.—"Actual Placement" is made when a car is placed in an accessible position for loading or unloading or at a point previously designated by the consignor or consignee. If such placing is prevented from any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery track serving the consignor or consignee, it shall be considered constructively placed, without notice.

Note 2.—Any railroad track or portion thereof assigned for individual use will be treated as "other-than-public-delivery track."

SEC. E. On cars to be delivered on interchange tracks of industrial plants performing the switching service for themselves or other parties, time will be computed from the first 7:00 a. m. after actual or constructive placement on such interchange tracks until return to the same or another interchange track. Time computed from the actual placement on cars placed at exactly 7:00 a. m. will begin at the same 7:00 a. m.; actual placement to be determined by the precise time the engine cuts loose. (See Rule 4, Section C, and Rules 5 and 6.) Cars returned loaded will not be recorded released until necessary billing instructions are furnished.

Note.—Where two or more parties take delivery from the same interchange track, or where the railroad company uses the interchange track for other cars, or where the interchange track is not adjacent to the plant and the industry uses the railroad's tracks to reach same, a notice of placement shall be sent or given to the consignee and time will be computed from the first 7:00 a. m. thereafter.

Rule 4. Notification

SECTION A. Notice of arrival shall be sent or given consignee or party entitled to receive same by this railroad's agent in writing or, in lieu thereof, as otherwise agreed to in writing by this railroad and consignee, within twenty-four hours after arrival of car and billing at destination, such notice to contain car initials

and number, point of shipment, contents and if transferred in transit, the initial and number of original car. When address of consignee does not appear on billing, and is not known, the notice of arrival must be deposited in United States mail enclosed in a stamped envelope bearing return address, same to be preserved on file if returned. An impression copy shall be retained, and when notice is sent or given on a postal card the impression shall be of both sides. (See Rule 3, Sections B and C.) In case a car subject to Rule 3, Section C, is not placed on public-delivery track within twenty-four hours after notice of arrival has been sent or given, notice of placement shall be sent or given to consignee.

Note.—When owner requests that original point of shipment be omitted on reconsigned cars, this information shall not be shown on notice of arrival at destination.

SEC. B. When cars are ordered stopped in transit notice shall be sent or given the party ordering the cars stopped upon arrival of cars at point of stoppage.

SEC. C. Delivery of cars upon other-than-public-delivery tracks or upon industrial interchange tracks, or written notice sent or given to consignee or party entitled to receive same, of readiness to so deliver, will constitute notification to consignee. (See Rule 8, Section D, Paragraph 1 (b).)

SEC. D. In all cases where any part of the contents of a car has been removed by the consignee prior to the sending or giving of required notice, such removal shall be considered as notice of arrival.

SEC. E. 1. When carload freight is refused at destination, notice of such refusal shall, within 24 hours thereafter, be sent by wire to consignor, when known, at his expense, or when not known to agent at point of shipment, who shall be required promptly to notify the shipper if known.

2. (a) When unclaimed perishable carload freight has not been disposed of within two days from the first 7:00 a. m. after the day on which notice of arrival has been sent or given to consignee, notice to that effect shall be sent by wire as provided in Paragraph 1 of this section.

(b) When other carload freight is unclaimed within five days from the first 7:00 a. m. after the day on which notice of arrival has been

sent or given to the consignee, a notice to that effect shall be sent by wire as provided in Paragraph 1 of this section.

(See Rule 8, Section D, Paragraph 4.)

Rule 5. Placing Cars for Unloading

Note.—Under this rule the time of movement between hold point and destination, and any other time for which the railroad is responsible will not be computed against the consignee.

SECTION A. 1. When delivery of a car consigned or ordered to an industrial interchange track or to other-than-a-public-delivery track cannot be made on account of the inability of the consignee to receive it, or because of any other condition attributable to the consignee, such car will be held at destination or, if it cannot reasonably be accommodated there, at the nearest available hold point, and written notice that the car is held and that this railroad is unable to deliver will be sent or given to the consignee. This will be considered constructive placement. (See Rule 3, Sections D and E.)

2. On a car to be delivered to a switching line for final delivery and which consignee located on switching line is unable to receive and which for that reason the switching line is unable to receive from this railroad, notice will be sent or given the switching line showing point of shipment, car initials and number, contents and consignee, and if transferred in transit the initials and number of the original car.

3. When this railroad is the switching line and, under conditions set forth in Paragraph 1, is unable to receive cars from a connecting line at destination for delivery within switching limits, upon receipt of notice from connecting line it will notify the consignee and put such cars under constructive placement. (See Rule 4, Section C.)

SEC. B. 1. When delivery cannot be made on specially designated public-delivery tracks, on account of such tracks being fully occupied, or from other causes beyond the control of this railroad, notice shall be sent or given the consignee in writing or, in lieu thereof, as otherwise agreed to in writing that delivery will be made at the nearest available point to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery will be made.

2. In the event consignee or party entitled to receive shipment serves notice upon this railroad of refusal to accept delivery at the point named in notice sent or given in accordance with Paragraph 1, the car will be held awaiting opportunity to delivery on the specially designated track subject to Rule 3, Section C, Paragraph 2.

Rule 6. Cars for Loading

SEC. A. Cars for loading will be considered placed when such cars are actually placed or held on orders of the consignor. In the latter case the agent must send or give the consignor written notice of all cars which he has been unable to place because of condition of the other-than-public-delivery track or because of other conditions attributable to the consignor. This will be considered constructive placement. (See Rule 3, Sections D and E.)

SEC. B. When empty cars placed on orders are not used in transportation service, demurrage will be charged from the first 7:00 a. m. after actual or constructive placement until released, with no free time allowance.

SEC. C. 1. Cars received from a switching line and held by this railroad for forwarding directions are subject to demurrage charges from the first 7:00 a. m. after they are received, until proper forwarding directions are furnished, with no free time allowance and without notice, except that cars received between 4:00 p. m. and 7:00 a. m. will not be subject to demurrage if forwarding directions are received prior to the following 12 noon.

2. Private cars which have been loaded on the tracks of their owners, received from such tracks and held by this railroad for forwarding directions, are subject to demurrage charges from the first 7:00 a. m. after they are received until proper forwarding directions are furnished, with no free time allowance and without notice.

SEC. D. If an empty car is appropriated without being ordered, it shall be considered as having been ordered and actually placed at the time so appropriated. If not loaded outbound, such car is subject to Section B of this rule.

Rule 7. Demurrage Charges

SECTION A. On cars not subject to Rule 9 (Average Agreement): After the expiration of

free time allowed, the following charges per car per day, or fraction of a day, will be made until car is released:

For each of the first four days, \$2.

For each succeeding day, \$5.

SEC. B. The charges on cars subject to average agreement are set forth in Rule 9.

Note 1.—When through no fault of the consignor or consignee, the lading of a car is transferred by a carrier into two or more cars or when two small cars are furnished by a carrier in lieu of one large car ordered by the shipper, demurrage will be charged as for one car only, as long as any of such cars are detained beyond the free time.

Note 2.—When a car contains two or more minimum carload shipments consigned to more than one consignee at the same station, demurrage will be charged the same as if the shipments had been received in separate cars and each consignee will be allowed a total free time of 48 hours (2 days) for unloading, free of interference by the other consignee or consignees.

Rule 8. Claims

No demurrage charges shall be collected under these rules for detention of cars through causes named below. Demurrage charges assessed or collected under such conditions shall be promptly canceled or refunded by this railroad.

Causes

SECTION A. Weather interference.

Note.—A consignor or consignee shall not be absolved from demurrage under Section A of this rule if, considering the character of the freight, others similarly situated and under the same conditions reasonably could and did load or unload cars during the same period of time.

1. When the condition of the weather during any part of the prescribed free time (or the adjusted free time provided for in Section B of this rule) is such as to make it impossible for men or teams to work at loading or unloading, or impossible to place freight in cars, or move it from cars, without serious injury to the freight, or when, because of high water or snow drifts (see Note) it is impossible, during the prescribed free time, to get to the cars for loading or unloading, the free time will be extended until a total of forty-eight hours (or twenty-four hours on cars subject to Rule 2, Section B, Paragraph 4) free from such interference shall have been allowed. No additional time will be allowed unless claim, stating fully the conditions which prevented loading or unloading within the free time, is presented in writing to this railroad's agent within thirty days after the date on which demurrage bill is rendered.

Note.—The extension of free time on account of high water or snow drifts shall apply to other-than-public-delivery tracks only where there is disability of this railroad.

2. When the lading is frozen while in transit so as to require more than forty-eight hours to remove it from the car, the total time actually expended by consignee in heating, thawing, or loosening and removing it will be considered as free time, but no allowance will be made for detention during the time that no effort is made to unload. This rule will not apply to shipments which are tendered in a condition to unload. Under this rule, consignee shall not be entitled to additional time unless, within the prescribed free time, he shall serve upon the railroad's agent a written statement that the lading was frozen when tendered.

3. No allowance on account of weather interference shall be made on cars subject to Rule 6, Section B.

SEC. B. Bunching.

1. Cars for loading.—When, by reason of delay or irregularity in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily placing as ordered, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered.

2. Cars for unloading or reconsigning.—When, as the result of the act or neglect of any carrier, cars originating at the same point or at intermediate points, moving via the same route and destined for one consignee, at one point, are bunched at originating point, in transit or at destination, and delivered by this railroad, in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars not been bunched, but when any car is released before the expiration of such free time, the free time on the next car will be computed from the first 7:00 a.m. following such release; provided, however, no allowance will be made unless claim is presented in writing to this railroad's agent within thirty days after the date on which demurrage bill is rendered and supported by statement showing date and point of shipment of each car.

SECTION C. Demand of overcharge. When this railroad's agent demands the payment of transportation charges in excess of tariff authority.

SEC. D. Delayed or improper notice by this railroad.

1. (a) When notice of arrival does not contain all the information specified in Rule 4, Section A, consignee shall not have the right to call in question the sufficiency of such notice, unless within the prescribed free time, he shall serve upon this railroad's agent a written statement of the omitted information required, in which event the time between receipt of such statement and the furnishing of the omitted information will not be computed against the consignee.

(b) When the consignee makes request in writing for the name of the consignor, point of shipment and (or), if transferred in transit, the initials and number of the original car, to enable him to identify the shipment in a car placed or tendered for delivery on other-than-public-delivery track, such information will be furnished, but consignee shall not be entitled to additional free time unless such request has been served on this railroad's agent within the prescribed free time, in which event the time between receipt of the request and compliance therewith will not be computed against the consignee. (See Rule 4, Section A, Note.)

2. When claim is made that a mailed notice has been delayed, postmark thereon shall be accepted as indicating the date of the notice.

3. When a notice is mailed by this railroad on Sunday, a legal holiday, or after 3:00 p. m. on other days (as evidenced by the postmark thereon) consignee shall be allowed five hours' additional free time provided he shall send or give to this railroad's agent, within the first twenty-four hours of free time, written advice that the notice had not been received until after the free time had begun to run; in case of failure on the part of consignee so to advise this railroad's agent, no additional free time shall be allowed.

4. In case of failure by this railroad to send notice in accordance with the provisions of Rule 4, Section E, the consignor shall not be held liable for demurrage charges between the date the notice should have been sent and the date it was actually sent.

SEC. E. Error of any railroad which prevents proper tender or delivery.

1. Under this rule demurrage will be charged on the basis of the amount that would have

accrued but for such error. This also applies in the case of constructively placed cars being "run-around" by actually placing recent arrivals ahead of previous arrivals, but allowance will only be made on cars subject to Rule 9, Average Agreement, that are held beyond the fourth debit day.

SEC. F. Delay by U. S. Customs. Such additional free time shall be allowed as has been lost through such delay.

Rule 9. Average Agreement

When the following agreement has been entered into the charge for detention of cars, on all cars subject to demurrage, held for loading or unloading, shall be computed on the basis of the average time of detention to all such cars released during each calendar month; such average detention and charge to be computed as follows:

SECTION A. One credit will be allowed for each car, released within the first twenty-four (24) hours of free time. After the expiration of forty-eight (48) hours' free time, one debit per car per day, or fraction of a day, will be charged for each of the first four days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued four debits a charge of \$5 per car per day, or fraction of a day, will be made for all subsequent detention and will apply on all subsequent Sundays and legal holidays, including a Sunday or holiday immediately following the day on which the fourth debit begins to run.

SEC. B. Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for unloading nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

SEC. C. Credits cannot be earned by private cars subject to Rule 1, Section B, Paragraph 4 (a), but debits charged on such private cars while under constructive placement may be offset by credits earned on other cars.

SEC. D. At the end of the calendar month, the total number of credits will be deducted from the total number of debits and \$2 per debit will be charged for the remainder.

If the credits equal or exceed the debits no charge will be made for the detention of the cars and no payment will be made by this railroad on account of such excess of credits; nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

SEC. E. A party who enters into this average agreement shall not be entitled to include therein cars subject to Rule 2, Section B, nor shall he be entitled to cancellation or refund of demurrage charges under Section A, Paragraph 1, or Section B of Rule 8.

SEC. F. A party who enters into this average agreement may be required to give sufficient security to this railroad for the payment of balances against him at the end of each month.

SEC. G. An average agreement must include all cars loaded or unloaded within the jurisdiction of the same station, except that when desired separate agreements may be entered into for each plant or yard within the jurisdiction of the same station, but in no case can the cars loaded or unloaded within the jurisdiction of two or more stations be combined in one average agreement, nor shall the cars loaded or unloaded by more than one consignor or consignee be combined in one average agreement, except that cars consigned, reconsigned, or ordered to a public elevator, warehouse or cotton compress serving various parties may be combined in one average agreement.

Agreement

.....Railroad.

Being fully acquainted with the terms, conditions, and effect of the average basis for settling for detention to cars as set forth in

....., being the car demurrage rules governing at all stations and sidings on the lines of said railroad, except as shown in said tariff, and being desirous of availing (myself or ourselves) of this alternate method of settlement (I or we) do expressly agree to and with the

..... Railroad that with respect to all cars which may, during the continuance of this agreement, be handled for (my or our) account at (Station) (I or we) will fully observe and comply with all the terms and conditions of said rules

as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs.

This agreement to be effective on and after the day of, 19....., and to continue until termination by

written notice from either party to the other, which notice shall become effective on the first day of the month succeeding that in which it is given.

Approved and accepted
19....., by and on behalf of the above-named
railroad by

Approved and accepted
19..... by and on behalf of the Director Gen-
eral of Railroads by

CODE OF STORAGE RULES THE AMERICAN RAILROAD ASSOCIATION

Recommended practice, subject to such changes as may be required to meet local conditions

Rule 1. Freight Subject to Rules

Freight, except company material, received for delivery or held to complete a shipment or for forwarding directions, if stored in or on railroad premises, is subject to these storage rules:

SECTION A. Carload shipments of explosives or other dangerous articles are subject to both demurrage and storage rules. (See Rule 6.)

SEC. B. Other carload freight held in cars for delivery and subsequently unloaded in or on railroad premises is subject to demurrage rules while in cars and to these storage rules after it is unloaded.

SEC. C. Shipments of less than carload freight loaded into or delivered direct from cars are subject to storage rules, but when the loading or unloading is done by shipper, or consignee either as required by classifications or tariffs, or at request of shipper or consignee, the cars are subject to demurrage rules and storage rules do not apply.

SEC. D. Freight upon which the free time allowed under demurrage rules has expired while in cars, and subsequently unloaded in or on railroad premises, is subject to these storage rules when unloaded, without free time allowance.

Rule 2. Notification

SECTION A. Notice shall be sent or given consignee by carrier's agent in writing, or as otherwise agreed to by carrier and consignee, within twenty-four hours (one day) after arrival of shipments and billing at destination, such notice to contain point of shipment and commodity.

SEC. B. REFUSED OR UNCLAIMED FREIGHT.—1. Where shipments have been plainly marked with the consignor's name and address, preceded by the word "from," notice shall be immediately sent or given consignor of refusal of L. C. L. shipments. Unclaimed L. C. L. shipments will be treated as refused after fifteen calendar days from expiration of free time.

2. Notice shall be sent or given the consignor of unclaimed or refused shipments of explosives or other dangerous articles on hand forty-eight hours, providing written request is received for this information by agent at point of origin at time of shipment. Such requests should be plainly written on a rectangular piece of paper of different color from any label required under the Interstate Commerce Commission's regulations and placed on the package in close proximity to such label (or to name of consignee).

3. Where consignor requests notice of unclaimed or refused shipments be sent by telegraph, this may only be done at his expense.

Rule 3. Free Time Allowed

SECTION A. Forty-eight hours' (two days) free time will be allowed on all commodities (except the more dangerous explosives, as described in Rule 6, Section A), for the removal of inbound freight from car or railroad premises, or to complete a shipment and furnish forwarding directions for outbound freight.

SEC. B. Twenty-four hours' (one day) free time will be allowed on the more dangerous explosives (as described in Rule 6, Section A), for the removal of inbound freight from car or railroad premises, or to complete a shipment and furnish forwarding directions for outbound freight.

SEC. C. Shipments held for reconsignment, or reshipment, will be allowed twenty-four hours' (one day) free time.

Rule 4. Computing Time

Note.—In computing time Sundays and legal holidays (National, State and Municipal) will be excluded. When a legal holiday falls on a Sunday, the following Monday will be excluded.

SECTION A. On inbound freight held for removal and on freight held for reconsignment or reshipment, time will be computed from the first 7:00 a. m. after the day on which notice of arrival is sent or given to consignee.

SEC. B. On outbound freight held to complete a shipment or for forwarding directions, time will be computed from the first 7:00 a. m. after receipt in or on railroad premises.

SEC. C. On outbound carloads of explosives and other dangerous articles (as described in Rule 6), time will be computed from the first 7:00 a. m. after loading is begun.

SEC. D. When orders for freight held for disposition or reconsignment are mailed, such orders will release freight at 7:00 a. m. of the date orders are received at the station where the freight is held, provided, the orders are mailed prior to the date received, but orders mailed and received on the same date release freight the following 7:00 a. m.

Rule 5. Charges for Storage on Freight Other than Explosives and Other Dangerous Articles

SECTION A. Freight, except Explosives or other Dangerous Articles (see Rule 6), held in or on railroad premises in excess of time allowed, is subject to storage charges at the rate of — cents per —* per day, or at the option of the railroad may be sent to public warehouses.

SEC. B. Any fractional part of —† pounds will be computed as —‡ and any fractional part of twenty-four hours will be computed as one day.

SEC. C. In no case shall the amount so collected for storage of a less-than-carload shipment exceed the amount authorized to be charged as storage on a carload of similar freight for the same length of time.

Rule 6. Charges for Storage on Explosives and Other Dangerous Articles

(Note.—The language of the I. C. C. Regulations may be changed in the near future. If so, such changes will be incorporated in this code.)

EXTRACTS FROM REGULATIONS PRESCRIBED BY THE INTERSTATE COMMERCE COMMISSION.

1. "General Rule D. Consignees must remove shipments of explosives from carrier's property within 48 hours after notice of arrival at destination."

2. Paragraph 1672. . . . "If a shipment of explosives is not removed within 48 hours after notice of arrival at destination (see General Rule D), it must be disposed of by return to the shipper, or by storage at the expense of the owner, or by sale, or when necessary to safety by destruction under supervision of a competent person."

3. "General Rule O. Consignees must remove shipments of dangerous articles from the carrier's property within 48 hours after notice of arrival at destination."

* Ton or 100 lbs. † 2,000 lbs. or 100 lbs. ‡ One ton or 100 lbs.

Storage will be charged at the following rates per day of twenty-four hours or fraction thereof, on explosives or other dangerous articles held in or on railroad premises in excess of free time allowed:

SECTION A. On less than carload shipments of the more dangerous explosives, *i.e.*, Black Powder, High Explosives, Smokeless Powder for Small Arms, Wet Fulminate of Mercury, Blasting Caps, Electric Blasting Caps, Ammunition for Cannon with Explosive Projectiles, Explosive Projectiles and Detonating Fuzes, unloaded in or on railroad premises, twenty-five (25) cents per 100 pounds, with a minimum charge of twenty-five (25) cents.

On carload shipments, \$5 per day in addition to the regular demurrage charges.

SEC. B. On less than carload shipments of the less dangerous and relatively safe explosives, *i.e.*, Ammunition for Cannon with Empty Projectiles, Ammunition for Cannon with Sand Loaded Projectiles, Ammunition for Cannon without Projectiles, Smokeless Powder for Cannon, Common Fireworks, Special Fireworks, Small-Arms Ammunition, Cannon Primers, Small-Arms Primers, Percussion Fuzes and Time or Combination Fuzes, or less than carload shipments of Dangerous Articles other than Explosives, requiring Red, Yellow, Green or White I. C. C. labels, unloaded in or on railroad premises, ten (10) cents per 100 pounds, with a minimum charge of ten (10) cents.

On carload shipments, \$2 per day in addition to the regular demurrage charges.

SEC. C. When shipments of the more dangerous explosives (see Section A) are not removed from the railway premises by the consignee within the legal limit (forty-eight hours (two days) after the first 7:00 a. m. following notice of arrival) the most practicable of the steps authorized by Paragraph 1672, as quoted above, must be taken to secure this removal.

When available, powder magazines not on railway property should be utilized for storage.

Rule 7. Claims

No storage charges shall be collected under these rules through causes named below. Storage charges assessed or collected under such

conditions shall be promptly cancelled or refunded by the carrier.

Causes

SECTION A. WEATHER INTERFERENCE.—1. When the condition of the weather during the prescribed free time is such as to make it impossible to remove freight from railroad premises without serious injury to the freight, the free time shall be extended until a total of forty-eight hours free from such weather interference shall have been allowed.

2. When, because of high water or snowdrifts, it is impossible to remove freight from railroad premises during the prescribed free time.

Note.—Section A, Paragraphs 1 and 2, shall not absolve a consignee from liability for storage if others similarly situated and under the same conditions are able to remove freight.

SEC. B. DEMAND OF OVERCHARGE. — When the carrier's agent demands the payment of transportation charges in excess of tariff authority.

SEC. C. DELAYED OR IMPROPER NOTICE BY CARRIER.—1. When notice has been sent or given in substantial compliance with the requirements as specified in these rules, the consignee shall not thereafter have the right to

call in question the sufficiency of such notice unless within forty-eight hours (two days) from 7:00 a. m. following the day on which notice is sent or given he shall serve upon the delivering carrier a full, written statement of his objections to the sufficiency of such notice.

2. When claim is made that a mailed notice has been delayed, the postmark thereon shall be accepted as indicating the date of the notice.

3. When a notice is mailed by carrier on Sunday, a legal holiday, or after 3:00 p. m. on other days (as evidenced by the postmark thereon) the consignee shall be allowed five hours' additional free time, provided he shall mail or send to the carrier's agent, within the first twenty-four hours of free time, written advice that the notice had not been received until after the free time had begun to run. In case of failure on the part of consignee so to notify carrier's agent, no additional free time shall be allowed.

SEC. D. Railroad errors which prevent proper tender or delivery.

SEC. E. Delay by United States Customs. Such additional free time shall be allowed as has been lost through such delay.

FREIGHT TRAFFIC GUIDE

(Approved by the American Railroad Association, May 15, 1912)
Amended December 1, 1919

North and South Railroad

Station

19

Demurrage Rule 5. Placing Cars for Unloading

SECTION B. 1. When delivery cannot be made on specially designated public-delivery tracks, on account of such tracks being fully occupied, or from other causes beyond the control of this railroad, notice shall be sent or given the consignee in writing, or in lieu thereof, as otherwise agreed to in writing that delivery will be made at the nearest available point to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point,

in which case the preferred will be made.

2. In the event consignee or party entitled to receive shipment serves notice upon this railroad of refusal to accept delivery at the point named in notice sent or given in accordance with Paragraph 1, the car will be held awaiting opportunity to deliver on the specially designated track subject to Rule 3, Section C, Paragraph 2.

M.....

You are hereby notified that the following cars consigned to you or ordered by you cannot be delivered on specially designated or customary public-delivery tracks, on account of such tracks being fully occupied _____ and delivery will, therefore, be made at _____ (Describe) _____ other cause beyond the control of this railroad

that being the nearest available point to you.

CAR		ORIGINAL CAR (If Lading has been Transferred)		CONTENTS	POINT OF SHIPMENT	REMARKS
Initial	Number	Initial	Number			

Agent.

ORIGINAL COPY OF THIS NOTICE RECEIVED

At _____ M _____ 19____ By _____ (Consignee) per _____

(If consignee refuses to acknowledge receipt of this Notice as provided above, the person delivering same should fill out, date and sign the following certificate on the copy kept on file by the Agent:)

I hereby certify that copy of this Notice was delivered by me to Mr. _____ representing the consignee named hereon at _____ M. on _____ 19____.

(Signature of person delivering notice.)

(If this notice cannot be delivered personally by the Agent or his representative, it must be served by mail, and the Agent should fill out, date and sign the following certificate on the copy kept on file by him:)

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at _____ M.
on _____ 19____

Agent

Amended December 1, 1919

Station, 19

M.....

[illegible]

Agent.

At _____ M _____ 19 _____ By _____ } Consignee
Per _____ } Consignee

(Signature of person delivering notice.)

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at _____ M. on _____ 19____.

Agent

Agent's copy must be preserved for a period of six years, as required by order of Interstate Commerce Commission

FREIGHT TRAFFIC GUIDE

(Approved by the American Railroad Association, December 3, 1913)
Amended December 1, 1919

**Form of Agreement between Railroad Companies and Consignees Covering Other than
Written Notice of Arrival of Freight**

North and South Railroad

....., 19.....

Mr.

Agent, North & South Railroad,

..... Station.

..... hereby agree, until further advice in writing, to accept notice* of
the arrival of freight, as the equivalent to written notice on this Railroad's standard form.

WITNESS.....

Approved and accepted....., 19....., by and on behalf of the above named

Rail..... Company, by.....

Agent, North & South Railroad.

*Insert method of giving notice, such as "by telephone," "orally."

This agreement should be executed in triplicate, one copy to be retained by the consignee, one copy to be retained by the agent and one copy to be forwarded to the officer in charge of Demurrage matters.

(Approved by the American Railroad Association, May 18, 1910)
Amended December 1, 1919

Form of Notice of Arrival of Freight Subject to Car Demurrage and (or) Storage Rules

Three methods of notification are provided:

1. SHEET FORM.
2. POSTAL CARD FORM.
3. FREIGHT BILL PROPERLY ENDORSED.

1. (Sheet Form of Notice—8 inches wide.)

North and South Railroad

Freight Station, 1001 North St., Southport, 19....

Freight as follows has arrived consigned to you, subject to Car Demurrage and (or) Storage charges as per tariffs on file.

Car Initials	Car No.	IF TRANSFERRED		CONTENTS OF CAR OR COMMODITY	POINT OF SHIPMENT
		Original Car Initials	Original Car No.		

Note.—When this form is used for l. c. l. freight, car initials and No. will not be shown.

(Signed) A. B. NORTHLAND, Agent.

2. (Postal Card Form of Notice)

North and South Railroad

Freight Station, 1001 North St., Southport, 19....

Freight as follows has arrived consigned to you, subject to Car Demurrage and (or) Storage charges as per tariffs on file.

(Signed) A. B. NORTHLAND, Agent.

Car Initials	Car No.	CONTENTS OF CAR OR COMMODITY	POINT OF SHIPMENT

Note.—When this form is used for l. c. l. freight, car initials and No. will not be shown.

Lading in..... Car No..... was transferred from..... Car No.....
Lading in..... Car No..... was transferred from..... Car No.....

3. (Freight Bill Form of Notice.)

The manifold freight bill form of notice is preferable to either the sheet form or postal card form. When used, it should be endorsed as follows: "Arrival Notice;" also

"Property will be stored at owner's risk and expense in accordance with storage tariff on file at this station.

"This car will lawfully be subject to demurrage charges for detention beyond the free time prescribed, and at the rate named in the demurrage tariff on file at this station."

FREIGHT TRAFFIC GUIDE

(Approved by the American Railroad Association, May 15, 1912)
Amended December 1, 1919

North and South Railroad

Southport,; 19.....

M.....

Dear Sir:

Your claim of, 19....., for cancellation of demurrage at station, based on weather interference, does not state definitely the conditions that prevented loading or unloading within the free time. This claim is subject to the following provisions of our demurrage tariff, lawfully on file with the Interstate Commerce Commission.

RULE 8.—SECTION A.—Weather interference.

Note.—A consignor or consignee shall not be absolved from demurrage under Section A of this rule if, considering the character of the freight, others similarly situated and under the same conditions reasonably could and did load or unload cars during the same period of time.

1. When the condition of the weather during any part of the prescribed free time (or the adjusted free time provided for in Section B of this rule) is such as to make it impossible for men or teams to work at loading or unloading, or impossible to place freight in cars, or move it from cars, without serious injury to the freight, or when, because of high water or snow drifts (see note) it is impossible, during the prescribed free time, to get to the cars for loading or unloading, the free time will be extended until a total of forty-eight hours (or twenty-four hours on cars subject to Rule 2, Section B, Paragraph 4) free from such interference shall have been allowed. No additional time will be allowed unless claim, stating fully the conditions which prevented loading or unloading within the free time, is presented in writing to this railroad's agent within thirty days after the date on which demurrage bill is rendered.

Note.—The extension of free time on account of high water or snow drifts shall apply to other-than-public-delivery tracks only where there is disability of this railroad.

Therefore, to enable us to determine whether your claim comes within the provisions of the above rule, please fill in blank spaces below, date, sign and return.

Upon receipt of this information, we will be in a position to check against our weather records and make such allowances as you may be entitled to under the above rule.

Yours truly,

(Signed) C. D. SOUTHLAND
(TITLE)

Initial	Car No.	Date	Loaded Unloaded	Amount	REMARKS

1. Is allowance claimed because the condition of the weather was such as to make it impossible for men or teams to work at unloading (or loading)?

Answer:

2. Is allowance claimed because the condition of the weather was such as to make it impossible to place freight in cars, or move it from cars, without serious injury to the freight?

Answer:

3. Is allowance claimed because high water or snow drifts made it impossible to get to the car(s) for unloading (or loading)?

Answer:

On what dates within the prescribed free time were the weather conditions such as described in Question(s) No.?

(Fill in No.)

Answer:

Date....., 19.....

(Signature).....

This Statement must be preserved for a period of eight years as required by the Regulations of
The Interstate Commerce Commission.

*(Approved by the American Railroad Association, May 20, 1914)***North and South Railroad****SHIPPER'S ORDER FOR EMPTY CARS**

Agent's Order No. Station, 19....

To Agent:

Please furnish empty cars (not previously ordered) as designated below. I hereby agree to load, consign and route same, as indicated.

(Signed)

Cars Wanted		Lading	Date Wanted	Destination	Route
No.	Kind				

Size of Form—4½ x 7 inches.

LIGHTERAGE

Lighterage.—In the large ports of the United States such as New York, Boston, etc., freight is delivered to vessels or other points by boats called lighters, floats, and barges. This service is called Lighterage.

There are two kinds of lighters: Steam lighters (meaning those that are self-propelled), and lighters that are towed by tug-boats. Barges are usually covered, to protect the lading from the elements, and are towed by tug-boats.

Floatage.—Carfloats are large flat-bottom boats having tracks laid upon them so that when they dock at the float bridges this track connects with the railroad track and cars are run directly onto the floats. These floats carry from eight to twelve cars and are towed to the various stations or alongside vessels by means of tug-boats. This service is called Floatage.

Lighterage of Perishable Freight.—The carriers' marine equipment usually includes enclosed barges fitted to protect perishable freight in warm weather by refrigeration and in cold weather by heat. These barges are employed in lightering import or export perishable freight between the railroad termini and steamships or piers to the extent that such barges may be available. The carriers do not guarantee absolute protection but undertake by this means to avoid, so far as practicable, loss of or damage to perishable freight, and make no extra charge for heat or refrigeration.

"Lighterage Free."—The term "Lighterage Free" means that rates to or from a port on articles entitled to free lighterage will include the transportation by lighters, barges, or floats (subject to the regulations provided in a tariff) to or from any pier or vessel or public landing within the free lighterage limits of the port. Frequently deliveries are made beyond the lighterage limits, but extra towage is charged.

Lighterage or floatage of freight to or from private piers or bulkheads or landing places (which are accessible by floatage equipment) will be performed by carriers, if shippers or consignees so arrange.

Weights of Heavy Pieces.—In order to expedite the handling of heavy pieces of machinery, iron girders, etc., for lighterage delivery, the weight

and dimensions of each piece weighing three tons and over, in addition to the total weight of the shipment, should be shown on the bill of lading.

When Rate Does Not Include Free Lighterage.—When the rate to or from a port does not include free lighterage, an additional charge for lighterage is made in accordance with the rules of the specific tariff.

Delivery Orders and Vessel Permits.—Delivery orders and vessel permits limiting the time for delivery will only be accepted with the understanding that same will be accomplished with as reasonable dispatch as the conditions and the general business of the carrier will permit.

Wharfage.—No payment for wharfage for the berthing of lighters, barges, or carfloats shall be made in excess of the legal rates established therefor; all other landing charges, including "top wharfage," if any, to be paid by shippers or consignees, who must also provide berth.

Commodities for Which No Carload Weight or Rate Is Provided in the Official Classification.—Commodities (other than prohibited articles) for which no carload weight or rate is provided in the Official Classification will be accorded the free lighterage privilege when loaded to the full stowing capacity of the car or when the billed weight of the car is 30,000 pounds or more.

Note.—Free lighterage is also extended to some other commodities when billed at a weight of 20,000 lbs.

Except as provided above, a charge in addition to the rate will be made for each delivery of domestic and export freight.

Less than Carload Shipments Received with Carload Shipments.—Less than carload shipments of outbound freight (which is "lighterage free" in carloads) received with a carload or more of lighterage free freight from the same shipper at the same point and at the same time will be subject to a tariff charge per hundred pounds, in addition to the rates.

Less than carload shipments of inbound freight which is lighterage free in carloads, received in the same car with a carload or more of lighterage free freight to the same consignee, for delivery at the same point and at the same time, will be accorded free lighterage.

Minimum Charge on Less than Carload Freight.—In the event that the freight charges to or from a port on a less than carload shipment of commodities (which when shipped in carload quantities are entitled to free lighterage), plus the minimum lighterage charge, aggregate more than the freight charges computed on the Official Classification minimum carload weight, carriers' tariffs usually provide that the shipment shall have the benefit of the minimum carload freight charge and free lighterage.

Part of a Carload for Export Delivered for Domestic Consumption.—If a portion of a carload for export is delivered for domestic consumption, the entire carload will be charged at the domestic carload rate and minimum carload weight (actual weight if in excess) not exceeding a charge based upon the export carload rate, if any, and minimum carload weight (actual weight if in excess) on the portion exported plus the charge at the domestic less than carload rate, plus lighterage, if lightered, on the portion delivered for domestic consumption.

Inbound Freight Requiring More than One Lighterage Delivery.—On carload inbound "lighterage free" freight, one export lighterage delivery or one free domestic lighterage or station delivery is usually made by the carrier of each individual consignment on which charges are assessed at the carload rate, in such quantity as the consignee may direct. Any additional lighterage delivery of part of the same consignment will be charged for at the tariff rate with a minimum charge. There are exceptions to this rule, however.

Lighterage Rates on Heavy Articles.—Pieces weighing up to three tons are usually "Lighterage Free." On pieces weighing over three tons there is a charge for lighterage, said charge being increased in accordance with the increased weight of the pieces. For the purpose of lightering heavy pieces over three tons, special equipment is required and usually outside lighters are employed.

Demurrage Charges.—When a lighter reports at its destination, shipper or owner, as the case may be, must provide a berth, and 48 hours from the time the lighter reports, Sundays and legal holidays excepted, shall be deemed "Lay Days" without charge, after which demurrage shall accrue against shipper or consignee, as the case may be, at a rate per day of 24 hours or fraction thereof, which must be specified in the tariff, Sundays and holidays included. The demurrage charge on lighters of ordinary merchandise in New York Harbor is \$20 per day. On lighters handling heavy commodities the charge for demurrage is considerably higher.

Allowance for Loading and Unloading Lighterage Freight.—An allowance for actual cost, not to exceed a certain amount per net or gross ton as rated, may be made to consignors or consignees for loading or unloading lighterage freight.

Reconsignment.—Delivery destination of domestic freight consigned to the port of New York for lighterage delivery must be shown in B/L, otherwise a reconsignment charge is made.

SWITCHING

Switching is the service performed in moving cars from one track to another within what is termed "Switching Limits." The roads performing switching service, or for which such service is performed by others, are defined as follows:

- A. Terminal Switching Roads.
- B. Intermediate Switching Roads.
- C. Carrier Roads.

A. Terminal Switching Roads.—A terminal switching road is the road on whose rails (or upon private tracks connecting therewith):

- (1) A car received from connecting line loaded is unloaded.
- (2) A car loaded and delivered to a connecting line destined to a point beyond the switching limits.

The service performed must be within the designated switching limits and on a switching charge.

B. Intermediate Switching Roads.—An intermediate switching road is a road handling a car from one railroad to another railroad, the service performed being within the designated switching limits and on a switching charge.

C. Carrier Roads.—A carrier road is a road delivering a loaded car to a terminal switching road (either direct or through an intermediate switching road) for unloading, or an empty car for return loading destined to a point beyond the switching limits, or to another carrier road (through an intermediate switching road), i. e., the road participating in the freight rate on the inbound or outbound load as the case may be.

There are three kinds of switching, as follows:

- A. Terminal Switching.
- B. Intermediate Switching.
- C. Intra-terminal Switching.

A. Terminal Switching is that performed by the road on whose rails (or upon private tracks connecting therewith):

- (1) A car received from connecting line loaded is unloaded.
- (2) A car is loaded and delivered to a connecting line destined to a point beyond the switching limits.

The service performed must be within the designated switching limits and on a switching charge.

B. Intermediate Switching is that performed by the road handling a car from one railroad to another railroad, the service performed being within the designated switching limits and on a switching charge.

C. Intra-terminal Switching occurs when a car is loaded within the switching limits for unloading within the same switching limits.

Switching Limits.—The area of a terminal within which switching service is performed under tariff charges, rules, and regulations is called "Switching Limits."

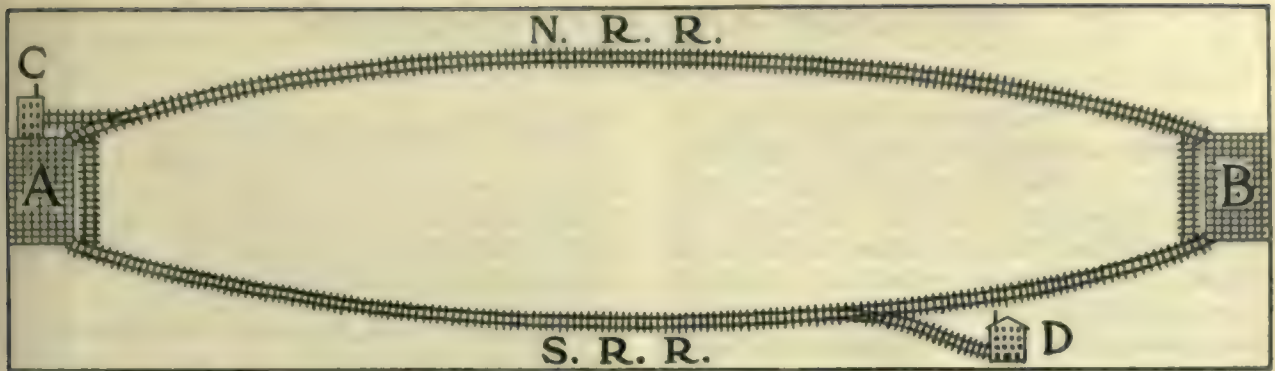
L. C. L. Freight.—Frequently carriers will handle L. C. L. shipments in switching service when loaded in a car, the aggregate weight of the shipment being not less than a specified weight, generally about 10,000 pounds.

Charges.—Switching charges are assessed on the basis of a certain amount per car as specified in the tariff and are added to the freight charges, unless the rates include the switching service.

The switching charge and transportation charge are collected from the shipper or consignee by the railroad performing the transportation service, unless the switching charge is absorbed in the rate. A railroad usually makes no charge for its switching service from or to sidings located on its tracks within the switching limits of a terminal, provided it has the line haul.

Absorption.—Railroads operating between competitive points are always competing for the desirable traffic and in order to obtain this traffic they must offer equal rates and service. A line desiring to handle the traffic of an industry located on the tracks of a competitor at a competitive point must pay the competing line's switching charge in order to obtain the traffic, and so must absorb the switching charge in its rate, thereby making the rates equal.

The following illustration will demonstrate the reason for the absorption of switching charges:



A and B are competitive points reached by the Northern Railroad and the Southern Railroad. At point A, industry C is located on a private siding connected with the tracks of the Northern Railroad, and in order that the Southern Railroad may handle any traffic from point B for industry C, it must absorb in its rate the Northern Railroad's switching charges. Also, if it is desired to handle any of the shipping of industry C forwarded to point B, the S. R. R. would have to absorb in its rate the Northern Railroad's switching charges.

If shippers at either point A or B desired to ship to industry D, located on a private siding connected with the tracks of the Southern

Railroad, switching charges would not be absorbed as there would be no competition for this traffic.

The absorption of the switching charges by competitors is a great advantage to shippers. For instance, many shippers at point B may be located nearer the terminal of the Southern Railroad, and it would be far more convenient for them to deliver their shipments to this terminal. Also, the expenses incident to shipping (cartage, etc.) would be less. Hence absorption is of mutual advantage when it equalizes the rate for transportation between competitive points.

DIVERSION AND RECONSIGNMENT

Application.—Freight in carloads may be diverted or reconsigned on carriers' lines subject to carriers' rules, regulations and charges.

When a request is made for diversion, the carrier will make diligent effort to locate the shipment and effect diversion, but it will not be responsible for failure to comply with a request unless such failure is due to the negligence of its employees. Diversion and reconsignment are simply privileges accorded by the carriers to shippers for the purpose of accommodation.

Benefit.—Diversion and reconsignment are essential to many industries, particularly those shipping perishable freight such as fruit and vegetables. Bananas are imported in steamers, and floats containing empty cars are placed alongside; the bananas are loaded into cars which are immediately started for some point where there may be a good market. It may develop that some other city would offer a better market and then shippers resort to this privilege and divert the cars to that point. Other commodities are also similarly handled in accordance with tariff provisions.

Definition.—While diversion and reconsignment may be strictly interpreted to mean separate acts, as a rule the tariffs of carriers make no distinction in their diversion and reconsignment rules and give the words the same meaning. According to the carriers' definitions, the term "diversion" or "reconsignment" means:

- (a) A change in the name of the consignee.
- (b) A change in the name of the consignor.
- (c) A change in destination.
- (d) A change in route at the request of consignor, consignee or owner.
- (e) "Order Notify" shipments held for surrender of bill of lading and shipments placed for inspection necessitating subsequent movement.
- (f) Any other instructions given by consignor, consignee or owner necessary to effect delivery, which requires a change in billing or an additional movement of the car, or both.

Charge Will Not Apply.—(a) For a single diversion or reconsignment, if order for such diversion or reconsignment is received at initial billing point before car leaves the yard at such initial billing point, provided the change involves no extra movement of the car.

(b) Where a car is placed for delivery at destination, and an order for the delivery of the contents thereof to other than the billed consignee is or has been presented to and accepted by the agent of the carrier at destination, and no change is involved in billing records, nor additional movement of car required.

(c) Where a change in route is made necessary by embargo placed against the billed destination or route thereto subsequent to acceptance of the shipment by carrier at point of origin.

Freight Rate Applicable.—These rules and charges will apply whether shipments are handled at local rates, joint rates, or combination of intermediate rates. The through rate to be applied under carrier's rules is the rate from point of origin via the diversion, reconsigning or reforwarding point, to final destination in effect on date of shipment from point of origin. If the rate from original point of shipment to final destination is not applicable through the point at which the car is diverted, reconsigned or reforwarded, in connection with the initial line, the tariff rates in effect to and from the diversion, reconsigning or reforwarding point will apply, plus diversion or reconsigning charges.

Demurrage and Track Storage Rules.—Freight stopped, diverted, reconsigned or reforwarded under carrier's rules will in addition be subject to demurrage and track storage charges lawfully in effect at point where stopping, diversion, reconsignment or reforwarding is accomplished.

The rules governing the diversion or reconsignment of freight are applicable while the freight is in possession of the carrier, also when it has reached billed destination on its lines and has been delivered to switching road for placement.

Switching Charges Additional.—If diversion or reconsignment is made after arrival of car at billed destination and the car has been delivered to a connecting road, all switching charges of connecting road will be in addition to any other charge.

Diversions or Reconsignments Beyond Rails of Carrier.—When diversion or reconsignment is requested after shipment has passed out of possession of the carrier, or when request is received too late for the carrier to effect the change desired, such request will be transmitted to direct connecting carrier to which shipment was delivered, when the responsibility of the initial carrier will end; and the shipment will be subject to the rules of the carrier on whose rails the diversion or reconsignment is accomplished.

Only One Change in Destination.—(a) Only one change in destination will be permitted by the carrier except as provided below, and then only provided the car has not had a previous change in destination after leaving the initial billing point.

(b) If the consignor, consignee or owner requests a subsequent change necessitating movement of the car, the shipment will be treated as a reshipment from point of forwarding and will be charged at the tariff rate therefrom plus diversion charge.

(c) If a car is stopped short of billed destination after it has had one diversion or reconsignment, charges will be made on basis of the tariff rates to and from the point at which the first diversion or reconsignment was accomplished, plus diversion charge, in addition to other diversion or reconsignment charges previously accrued.

Diversion or Reconsignment in Transit.—If a car is diverted or reconsigned in transit prior to arrival at original destination, or if the original destination is served by a terminal yard, then prior to arrival at such terminal yard, the tariff charge will be made for such service.

Stopping in Transit.—If a car is stopped for orders for the purpose of delivery, or diversion, or reconsignment, or reforwarding prior to the arrival at original billed destination, or if such destination is served by a terminal yard, then prior to arrival at such terminal yard, on re-

quest of consignor, consignee or owner, a charge will be made for such service and the point where the car is stopped will be considered the destination of the freight.

Changed at Destination on Orders Given Before Arrival.—If order for diversion or reconsignment is placed with local freight agent at billed destination, or other designated officer, in time to permit instructions being given to yard employees prior to arrival at such billed destination, or if the original destination is served by a terminal yard, then prior to arrival at such terminal yard, the tariff charge is usually made for such service.

Diversion or Reconsignment to Points Outside Switching Limits Before Placement.—If a car is diverted, reconsigned or reforwarded on orders placed with local freight agent or other designated officer after arrival of car at original destination, but before placement for unloading, or if the original destination is served by a terminal yard, then after arrival at such terminal yard, the tariff charge will be made, if car is diverted, reconsigned or reforwarded to a point outside of switching limits of original destination.

Diversion or Reconsignment to Points Within Switching Limits Before Placement.—A single change in the name of consignee at destination and (or) a single change in, or a single addition to the designation of his place of delivery at destination will be allowed:

(a) Without charge, if order is received in time to permit instructions to be given yard employees prior to arrival of car at destination, or if the destination is served by a terminal yard, then prior to arrival at such terminal yard.

(b) At the tariff charge, if such orders are received in time to permit instructions to be given to yard employees within twenty-four hours after arrival of car at destination, or if the destination is served by a terminal yard, then within twenty-four hours after arrival at such terminal yard.

(c) At the tariff charge, if such orders are received subsequent to twenty-four hours after arrival of the car at destination, or if the destination is served by a terminal yard, then subsequent to twenty-four hours after arrival at such terminal yard.

Diversion or Reconsignment to Points Outside Switching Limits After Placement.—If a car has been placed for unloading at original billed destination and reforwarded therefrom without being unloaded, to a point outside of the switching limits, it will be subject to the published rates to and from the point of reconsignment, plus a reconsignment charge per car, except that in no case shall the total charge be less than the charge based on the through rate from point of origin to final destination, plus a reconsignment charge.

Diversion or Reconsignment to Points Within Switching Limits After Placement.—Cars that have been placed for unloading and which are subsequently reforwarded without being unloaded to a point within the switching limits of the billed destination will not be subject to diversion, or reconsignment charge, but will be subject to the switching or local rate, in addition to the rate from point of origin to billed destination.

Back Haul Shipments.—(a) *Before Placement:* If a car is diverted, reconsigned or reforwarded on orders placed with local freight agent or other designated officer before placement for unloading, through rate from original shipping point to final destination plus the published local rate to cover the back haul service in each direction, plus reconsigning charge but not in excess of full combination of local rates to and from point of diversion or reconsignment plus diversion or reconsignment charge will be assessed. (b) *After Placement:* If a car has been placed for unloading at original billed destination and reforwarded therefrom without being unloaded, full tariff rate to and from point of diversion or reconsignment plus a diversion or reconsignment charge, but not less than the through rate from original shipping point to

final destination plus diversion or reconsigning charge will be assessed.

Minimum Quantity Diverted or Reconsigned.—Freight shipped at less than carload or any quantity ratings when forwarded in one car, from one station, on one day, by one shipper, on one bill of lading, for delivery to one consignee at one destination, will be diverted or reconsigned subject to the same rules and reconsigning charges applicable to carload freight provided the revenue paid thereon is not less than charged for the following minimum quantities: On butter, eggs, cheese, dressed poultry, game and all other perishable commodities for the movement of which in less than carload quantities refrigerator or ventilator cars will be furnished under the tariffs, and for the movement of which a refrigerator or ventilator car is actually used, 15,000 pounds; on all freight in ordinary equipment, 24,000 pounds.

Order-Notify Shipments and Shipments Placed for Inspection.—Shipments covered by "order" or "order-notify" bills of lading placed on hold tracks, awaiting surrender of bill of lading, or shipments which are placed for inspection of contents before delivery and which necessitates subsequent movement of car to place of delivery, will be considered as reconsignments within the switching limits before placement, and subject to the rules and charges. Provided, that the surrender of the original bill of lading shall not be a condition precedent to the placement of the car or to the giving of the order designating where the car shall be placed for unloading, except that where place of delivery designated is other than the local team tracks, original bills of lading must be surrendered or indemnity bond executed in lieu thereof or other satisfactory assurance given carrier.

CLAIMS

Cause of Antagonism.—There probably has been no greater cause for the antagonism that has existed between the carriers and the industrial traffic men than that arising from the investigation and adjustment of the many varieties of claims.

There was a time when carriers or their representatives considered it efficient management to secure clean receipts and questionable action was taken for this purpose. For instance, packages arriving in a damaged condition, or which after unloading became damaged, were frequently placed in good condition and clean receipts obtained from consignees. The public, on the other hand, frequently endeavored to obtain clean receipts for damaged or short consignments and many unjust claims were presented. During the last twenty years there has developed a radical change marked by reciprocal courtesy and confidence which has been advantageous to all interests.

Cooperation.—During the last decade there has been a growing spirit of cooperation between the carriers and the public which has been chiefly caused by the advance in business methods and more regard for equitable principles, as well as the inauguration of uniform rules and practice.

The railroads have greatly improved their service by the extension of through billing and loading. They also have adopted a policy of promptly establishing validity of claims and do not endeavor to avoid liability.

The industrial traffic men have realized more clearly the limitations of the carriers and have endeavored to apply to their actions the principles of the Golden Rule. There is no doubt whatever that when an equal desire prevails to reach a common point in the adjustment of a grievance, it can be speedily attained, and using this principle as the basis, the two interests are rapidly being reconciled.

Causes for Claims.—The chief causes for damage to freight are: improper packing, unsuitable containers, and careless inspection of cars prior to loading. Incorrect marking, routing and other errors on the part of the shippers, through their lack of knowledge of the rules

of the Classification and tariffs applicable, cause many claims.

Causes of Delay in Settlements.—The carriers have very slight protection by law in transacting their business and can only pay a claim that is legitimate. Improper preparation of the claim papers on the part of claimants tends to delay investigation and when several carriers participate in the transportation, the claim papers must pass through the claim departments of each of the carriers participating in the movement of the freight.

The carriers are desirous of expeditiously handling transportation and endeavor to facilitate deliveries for the accommodation of their patrons and do not insist on measures that would insure a lawful delivery. For instance, one of the large trunk lines in this city received at its terminal a case of shawls valued at \$750, consigned to a well known department store which operated its own trucks. A notice of arrival was mailed to the consignees and was presented to the railroad office by the man who drove onto the premises with a truck bearing the name of this department store. He paid the freight charges and identified himself by means of the name on the truck he was driving, and delivery was made. Claim was subsequently presented for the value of this case, which was declined by the railroad and the claimants brought suit in the court. It was proven that the man who drove this truck and signed for the goods was not an employee of the concern.

It developed in the trial of the case that the driver was at lunch and had left his truck unguarded. A man conversant with the ways of the railroad terminal got on the driver's seat, where he found the rightful driver's papers, among which was the notice of arrival for the case of shawls showing the amount of charges. He presented the notice of arrival to the railroad cashier, paid the charges and received an order for delivery, after having apparently identified himself properly as the person entitled to delivery. After obtaining delivery of the case, he delivered it to an accomplice and replaced the truck at the point from whence he took it.

The court awarded to the claimants the full amount of their claim, plus the accrued interest, the law requiring that it is the duty of the railroad to know to whom they make delivery. If this law was strictly complied with, it would be almost impossible for the railroads to transact business and would be a cause of great inconvenience and annoyance to their patrons. Therefore, shippers and consignees should recognize the difficulties under which the carriers operate and cooperate with them in every manner possible in all business transactions.

Time in Which to File Claims.—The Interstate Commerce Act provides that it shall be unlawful for any common carrier to provide by rules, contract, regulation or otherwise, a shorter period for giving notice of claims than 90 days, and for the filing of claims than four months. The rail carriers, however, allow six months for presentation of claims on domestic traffic and nine months on export traffic. The express companies allow four months for the presentation of claims.

Liability of Carrier.—For many years in accordance with the Conditions of the Uniform Bill of Lading, the liability of the carrier for loss of goods was as stated in a paragraph in Section 3 of said Conditions, as follows:

"The amount of any loss or damage to which any carrier is liable shall be computed on the basis of the value of the property at the place and time of shipment."

In the decision of the United States Supreme Court in the case of *C. M. & St. P. Ry. vs. McCaull-Dinsmore Company*, it was held that this clause was not legal and that the claimant was entitled to the actual damage sustained. Due to this decision, the carriers were obliged to issue a new Uniform Bill of Lading eliminating this clause.

Various Kinds of Claims.—The various claims made against the carriers may be designated as follows: Overcharge in Rate, Overcharge in Weight, Evident Loss, Concealed Loss, Evident Damage and Concealed Damage.

Claim for Overcharges should be filed by shipper or consignee with the carrier's agent who collected the charges. If the Overcharge is discovered before payment of charges or immediately thereafter, frequently arrangements may be made

with the agent to issue corrections and thereby avoid the presentation of a claim.

Claim for Loss or Damage should be filed with the delivering carrier, as adjustment will be thereby expedited. Overcharges occur through the application of erroneous rates, improper classification of freight, excessive weight, or in the incorrect assessment of charges covered by Special Service Tariffs.

Interest on Overcharge Claims.—The Interstate Commerce Commission has ruled that a claimant may add interest to his claim for Overcharge when adjustment is not made within thirty days after payment of billed charges. The claimant, however, may waive his right to this claim for interest.

Note.—Standard Form for Presentation of Overcharge Claims is shown on page 359.

Evident Loss.—Evident Loss means that a loss has occurred that is plainly evident at the time of delivery to consignee. The term means that the full quantity called for in the bill of lading cannot be delivered, whether on account of error in forwarding, pilfering, leakage or sifting. It also covers damage that renders valueless the entire shipment or any portion thereof.

All exceptions as to Evident Loss should be noted on the delivery receipt before consignee or his representative affixes signature. Carrier also should be requested to note the exceptions on the freight bill.

Concealed Loss.—Concealed Loss is one that is not discovered until the goods have been removed from the containers which bore no evidence of loss when delivery receipt was signed. On ascertaining Concealed Loss, the consignee should immediately telephone to the delivering agent, requesting that a representative of the railroad company be sent to examine the freight, and should confirm his telephone request with a letter. After waiting a reasonable length of time, if the carrier does not send a representative, the goods should be used and claim, properly substantiated, should be presented.

Evident Damage.—Evident Damage means that the damage is plainly evident at the time delivery of the shipment is tendered to the consignee. In cases of this kind the consignee should accept the property and have the excep-

tions as to its condition noted on the delivery receipt prior to affixing his signature.

Concealed Damage.—Concealed Damage means a damage that is not plainly evident at the time shipment is tendered for delivery, but is discovered subsequent thereto when the containers are removed. It may be breakage of glassware, injury to furniture that was crated and burlapped, hook holes in rugs shipped in bales, or other similar Concealed Damage.

Loss or Damage by Delay.—Loss by Delay is one that is sustained by reason of a decline in the market prices during the period of delay, expenses that may be incurred by shipper or consignee in consequence of the delay, also the loss of sale of seasonable goods.

Claims for Loss or Damage by Delay are very difficult to collect and must be supported by indisputable evidence.

However, claims for Loss by Delay of perishable property, which from its inherent nature is subject to deterioration and decay, are readily supported by proper evidence.

Claims for Loss by Delay of seasonable goods are also readily proved. For instance, goods for sale during the Christmas Holidays are shipped in ample time with reasonable movement to reach destination by the first of December, and do not arrive until after the close of the Holiday Season, January 1st.

Note.—Standard Form for Presentation of Loss or Damage Claims is shown on page 360.

Consignees Should Accept Damaged Freight.—It is the duty of the consignee to accept delivery of damaged freight and the acceptance thereof does not in any way affect the strength of their claims. Consignees are in a better position to dispose of damaged property or have it repaired, as it is in line with their regular business.

Consolidation of Claims.—

- (a) **OVERCHARGES.** When there are two or more overcharges on shipments moving between the same points via the same route, or from one point to several points of destination on the same delivering road forwarded via the same route, they should be included in one bill. Each shipment, however, should be itemized in bill. When the items are too numerous to enter in bill it will be permissible to

attach a statement (in duplicate) tabulating the reference to shipments in the same form—date, order number, destination, gross weight, etc. In the bill should be shown the shipping point, article, the notation "see attached statement of shipments," and the amount of overcharge.

- (b) **Loss.** Claims for loss or damage must not be consolidated.

Arrangement of Claim Papers.—Each individual set of claim papers should be fastened together with suitable paper fasteners and arranged in the following order, reading from the top down:

Letter of transmission (if any).

Claim Base.

Certificate of weight.

Certified copy of invoice.

Affidavit of consignee.

Affidavit of consignor.

Trace papers.

Expense bill issued at destination (if collect).

Prepaid expense bill (if prepaid).

Copy of initial line's waybill.

Original bill of lading.

Note.—Affidavits are only to be attached to claims for Concealed Loss or Concealed Damage.

Reparation.—A Reparation Claim is filed with the Interstate Commerce Commission. It is a claim for loss or damage sustained through violation on the part of the carriers of the first three sections of the Interstate Commerce Act, respectively, first, by Assessment of Unreasonable Charges; second, by Discrimination; third, by Preferential or Prejudicial Rates. A claim is presented either in the form of a Formal or Informal Complaint and it must be supported by an accurate statement of facts together with all the information covering the shipment.

Claims for reparation should be supported by the transportation documents relevant thereto.

Tracing.—A tracer is a form of inquiry forwarded from one point to another to ascertain the disposal made at each successive stage of transfer, or the present whereabouts of missing freight or express matter. In this age, with the improved transportation facilities, when freight is moved on schedule and not at intervals, a

tracer can in no possible way aid in the quick dispatch of a less than carload shipment. As a rule, a tracer is not handled by the Operating Department of a railroad which is responsible only for the transportation of freight. It is an inquiry made by the Railroad Traffic Department in an endeavor to locate missing property, which may have been incorrectly billed, misloaded, or unduly delayed.

While it is the duty of carriers to transport a shipment to its destination within a reasonable time, there is no benefit derived from instituting a tracer on a less than carload shipment. If a less than carload shipment is not delivered

within fifteen days from the date of shipment a tracer claim should be made (see form on page 351, which form is a Notice of Claim), or a regular claim for the value of the goods may be presented. A claim for value of goods not delivered is the best kind of Tracer that may be instituted, as it stimulates prompt action on the part of the carrier.

When there is an unreasonable delay in the movement of carload freight, a Tracer should be promptly instituted, as by this means cars may be located and delivery expedited.

Requests for tracing should be presented to the agent at point of shipment.

EXPRESS TRAFFIC

Character of Service.—The Express business is a part of the transportation service performed by the railroads, as a large majority of the commodities forwarded by express are transported by rail, usually under a contract by which the railroads participate in the earnings. Other agencies are also used, and the service to foreign countries, except Canada and Mexico, is furnished by steamship companies. Express matter is usually transported by railroads on passenger trains, but in exceptional instances it may be transported on trains carrying no passengers.

The Express Companies will virtually accept any commodity, and many articles that the railroad will not carry as freight are forwarded by express, such as precious stones, money, etc. Perishable freight, however, can be forwarded on fast freight trains by the railroads with practically equal dispatch and at a much lower rate than is charged by the Express Company.

There is no doubt that the Express service is excellent and in many respects cannot be equalled by any other agency. A commodity, regardless of value, may be transported, and in case of loss or damage the Express Company is liable for the full value. The most valuable articles are entrusted to the Express rather than to Government mail; for, due to ever-increasing care, there is a system of package insurance which secures the owner in almost any case of loss. The Express Company will call at shipper's place of business or residence for a shipment, forward it usually on the same day on a train traveling at a rate of forty to sixty miles per hour, and deliver it at the street address of consignee at destination. If the shipment was forwarded as freight, there would be an expense for cartage to the freight station and another cartage expense at destination, which expense must always be added to the freight rate when considering the cost of transportation. The C. O. D. service, which means the Express Company will collect on delivery for account of shipper the amount of the invoice for the goods, is a very great convenience to the shippers.

Primitive Method.—During the first years of railroad operation there was no provision for handling express shipments. Those desiring to

send valuable packages or other articles quickly to their destination entrusted them to the care of the railroad employees of the passenger trains, who left them with the station agents to be called for by the owner.

First Systematic Service.—In 1839 William F. Harnden advertised to take charge of money and small parcels and transmit them between Boston and New York. This service was soon widely extended. From his single carpet-bag has arisen a system of intercommunication between places and persons that, for number of stations and length of route, is surpassed only by the Post Office Department, and during the last quarter of a century this business has grown to enormous importance.

Organization.—The Express Companies were originally corporations, joint stock companies, partnerships, or individual enterprises. The four large companies were: Adams, American, Southern, and Wells-Fargo. The American Express was formed in 1850, Wells-Fargo and Company in 1852, Adams Express in 1854, and the Southern in 1886. The United States Express Company was one of the leading companies until 1914, when it dissolved and its business was taken over by the other companies. These companies transacted about 95% of the express business and operated on approximately 92% of the railroad mileage. In a general way they divided the business of the country and there always has been harmony of action and absence of competition.

Government Operation.—In November, 1918, these four large companies were taken over and operated by the Government under the name of the American Railway Express.

Permanent Consolidation.—After the return of the companies to private ownership, a petition was filed with the Interstate Commerce Commission for permission to continue the consolidation, and under the powers given to the Commission by the Transportation Act of 1920 the consolidation was authorized. This action on the part of the Commission was entirely within the scope of the Act and there is no doubt but that the consolidation is of mutual advantage to shippers and the companies. The shippers who were compelled to deal with four

different companies now are able to transact their business with one. The consolidation has enabled the Express Companies to conduct their business more efficiently and economically.

Competition.—During the current year a competitor to the American Express has arisen in the South, viz.: The Southeastern Express, which was organized May 1, 1921, and operates on the lines of the Southern, and the Mobile and Ohio railroads. Under the Interstate Commerce Act, the two Express Companies are obliged to cooperate in the handling of through traffic and without doubt arrangements for this service, satisfactory to all interested, will be consummated.

Regulation.—While the Interstate Commerce Commission has the power to suspend the rates and Classification of the Express Companies and prescribe reasonable rates and classifications, it is claimed that it has no jurisdiction over the service. Eventually, if this should be determined to be a fact and complaints are filed, the Government will undoubtedly confer this power whenever it is considered necessary.

Present Service.—The present service of the Express Company is exceptionally efficient, and in every way possible the Company is endeavoring to improve it. The "Right Way Plan" recently promulgated, has been a means of education both to the shippers and to the employees of the Company. In this plan, shippers are informed that "They may assist by constantly watching the packing and marking to make sure that no careless or unsafe practices are employed; that abbreviations are not used beyond the safety point; that old marks are effectively erased; that receipts are properly prepared and bear the actual date of shipment." This is the day of cooperation, and shippers should cheerfully assist by becoming conversant with the Express Classification and strictly comply with the rules shown therein, as it is of mutual advantage.

Packing.—The Transportation Companies as well as shippers, suffer enormous losses through improper packing. Strict attention should be given to this important part of preparing the shipment, as careless and indifferent shipping methods frequently defeat good advertising and good salesmanship.

Marking.—Each package, bundle, or loose piece in a shipment must be plainly, legibly and

durably marked, showing the name of only one consignee and of only one station, town, or city, and the county (if there are two or more places of the same name in the state), and state to which destined. The name of the shipper must also be marked thereon, preceded by the word "From." It is wise to place the name and address of the consignee inside the package, for if the outside marking is lost or destroyed, this will prevent delay in delivery. Avoid the use of tags if the condition of the package will permit marking with ink.

The value of the shipment must also be marked on each package and on the receipt. If the shipment is C.O.D., mark "C.O.D.—\$....." plainly on the package and receipt. If the shipment is forwarded C.O.D., an envelop must be prepared to accompany it and shipper's name and address must be plainly shown on this C.O.D. envelop, as well as the name and address of the consignee. It is very important that the name and address of the shipper be legibly shown, in order to facilitate the prompt return of the envelop containing payment for the merchandise. When one C.O.D. covers two or more packages, the amount of C.O.D. must be marked on each.

Examination of C.O.D. shipments will be allowed only when instructions to do so are written or printed on the package and also enclosed in the C.O.D. envelop accompanying shipment, or upon subsequent written authority from the shipper endorsed by the agent at point of shipment.

On every shipment the agent is required to affix a label indicating whether the charges are *prepaid* or are *to be collected* from consignee. "Prepaid" label is printed on yellow and "collect" label on white paper.

Weighing.—All express shipments should be weighed, if possible, immediately on receipt, and weight as charged compared with actual weight. Any industry that receives frequent express shipments that are packed in wooden boxes or crates, should examine the merchandise for the purpose of ascertaining if it is of such a nature that it could be just as well packed in heavy wrapping-paper or paper boxes. It is a frequent practice for goods to be shipped by express in wooden boxes weighing as much as or more than the goods. Shipments weighing not over 25 pounds may be forwarded wrapped in at

least two sheets of heavy wrapping-paper and tied up with a heavy cord around each end and over the center. It is advisable that all shipments weighing 35 pounds or less should be forwarded by express or parcel post, rather than by freight.

Classification.—The Official Express Classification is very simple to interpret. It is practically an exception sheet, as only a few commodities are placed in second class, and printed

matter in third class. All other commodities take first class rate, except some extremely light or bulky packages which take a multiple of first class rate.

Rates.—Rates on Express matter are easily determined from the tariff published, but the rule governing fractions is unusual. Care must be exercised in computing charges; for, wherever fractions occur, either in the aggregate weight or charges, the next higher number must be used.

PARCEL POST

Parcel Post transportation is a service furnished by the Post Office Department for packages of limited weight. The chief advantage offered by this service is the cheap rates on short distance traffic, and the facilities afforded to forward to rural communities that are not reached by the railroad such commodities as are handled under the rules of this service.

Character of Service.—While the Parcel Post service affords many desirable facilities it does not equal the service given by the Express Company. The latter agency will transport any commodity regardless of its value to any large city, and in most places calls for and delivers the shipments transported. The weight of packages forwarded by Parcel Post, as well as the value, is limited; also the commodities they handle are limited.

Establishment of Service.—The Parcel Post service was first established January 1, 1913, and it embraces what is termed Fourth Class matter.

Zones.—For Parcel Post purposes the United States is divided into units of area of thirty inches square, which form the basis of eight Postal Zones. The Eighth Zone rate includes Alaska, Hawaii, the Philippines, Canal Zone, Guam, Samoa, and the U. S. Postal Agency in Shanghai.

The number of the unit in which the Office is located is shown after the name of the office of the State list in the Official Postal Guide. In order to ascertain in which Zone a Post Office is located, the Post Office Department furnishes an Official Postal Guide and a Zone Key. The Guide is applicable to all offices but a separate Key is required for each unit.

Special Delivery.—By paying a special delivery fee of ten cents in addition to the regular postage, special delivery of Parcel Post Matter may be obtained and many patrons of this service consider it advisable to pay this additional fee on their shipments.

War Tax.—A War stamp tax of one cent for each postage charge of twenty-five cents, or fractional part of twenty-five cents, must be paid on packages for Parcel Post Matter on which the postage amounts to not less than twenty-five cents each. The tax is not applica-

ble to packages on which the parcels are less than twenty-five cents. Parcels will not be accepted unless both the required postage and tax are fully prepaid. Special Internal Revenue stamps must be used to pay the tax; postage stamps are not valid for this purpose.

Weight.—The limit of weight on Parcel Post Matter is 70 lbs. for parcels mailed for delivery within the first, second and third zones and 50 lbs. for all other zones.

Size.—The Parcel Post matter may not exceed 84 inches in length and girth combined. In measuring a parcel, the greatest distance in a straight line "between the ends but not around the parcel" is taken as its length, while the distance around the parcel at its thickest part is taken as its girth.

For example, a parcel 35 inches long, 10 inches wide and 5 inches high, measures 65 inches in length and girth combined.

Rates.—The Official Guide shows a table of rates applicable to the different zones. The following table shows the construction of merchandise rates and with the Unit Key is applicable from all places in the United States.

Note.—The Unit Key is the one applicable at the point of mailing or shipping and may be obtained from the Post Office Department.

Insurance.—Domestic Parcel Post merchandise, excepting some commodities specified in the Official Guide, may be insured against loss, pilfering or damage in amount equivalent to the actual value, viz.,

Up to \$5.00 for a fee of 3 cents	} in addition to the postage.
25.00 for a fee of 5 cents	
50.00 for a fee of 10 cents	
100.00 for a fee of 25 cents	

The amount of the insurance fee and the amount of postage will be stated separately on the receipt.

C. O. D. Shipments.—Parcel Post merchandise, excepting some commodities specified in the Official Guide, may be sent C.O.D.; that is, the price of the article and the charges thereon (including, if desired, the postage and fee prepaid) will be collected from the addressee, not to exceed \$50.

Inspection before payment of charges on C.O.D. shipments will not be allowed.

	Extent of Zones	For four ounces or less	For more than four ounces and up to one pound	For each additional pound or fraction thereof
Local Delivery	Within the delivery districts of office where mailed	One cent for each ounce or fraction of an ounce regardless of zones	Five cents	One cent for each 2 pounds
First Zone Second Zone	Beyond local delivery and up to 150 miles		Five cents	One cent
Third Zone	150 to 300 miles		Six cents	Two cents
Fourth Zone	300 to 600 miles		Seven cents	Four cents
Fifth Zone	600 to 1000 miles		Eight cents	Six cents
Sixth Zone	1000 to 1400 miles		Nine cents	Eight cents
Seventh Zone	1400 to 1800 miles		Eleven cents	Ten cents
Eighth Zone	All over 1800 miles, including Alaska, Hawaii, the Philippines, Canal Zone, Guam, Samoa, and the U. S. Postal Agency in Shanghai		Twelve cents	Twelve cents

Note.—The rate on books in all zones is one cent for each two ounces for parcels weighing 8 oz. or less; parcels weighing over 8 oz. take the regular Parcel Post rates.

Claims for Loss or Damage to Mail.—Claims may be filed by sender or addressee by calling at the Post Office and filling out a form prepared for that purpose, or claims may be presented in a letter. *Claims for loss* are held thirty days by the Postmaster; and if the loss is not located within that time the claim is forwarded to the Post Office Department for investigation and adjustment. *Claims for Pilfering or Damage* are immediately forwarded to the Post Office Department.

Affidavits.—When affidavits are taken in

support of claims they may be sworn to before an authorized representative of the Post Office without charge.

Partial Damage.—When partial damage is sustained by the contents of an insured or C.O.D. parcel, the person to whom it is sent should obtain a signed statement from a competent repair man showing what the cost of necessary repairs will be. When the addressee accepts damaged, insured or C.O.D. parcel and desires to present claim, he must have sender's authorization to do so.

WAR REVENUE TAX ON EXPRESS CHARGES

New York, August 10, 1919

1. The new War Revenue Law (Section 500 (b)) provides that there shall be collected by the Express Companies from and after April 1, 1919, a tax of 1 cent for each 20 cents or fraction thereof of the amount paid for the transportation by express from one point in the United States to another *and also a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States (Imports only).*

The above tax (*see italics*) on shipments from a point without the United States to a point within the United States will be collected and accounted for as follows:

- (a) On shipments rebilled at the border point assess the tax on the earnings in the United States in the same manner as if carried wholly in the United States and collect from consignee on delivery of shipment.
- (b) On shipments from Canada carried on through waybills, the tax on both *prepaid and collect* shipments must be collected *from the consignee.*
- (c) *The War Tax collected from consignee on prepaid waybills covering shipments from Mexico and Canada must be settled in War Tax collect column on statement of waybills received.*

The tax must be computed on the proportion of the express charges for transportation performed within the United States, ascertained on the basis of the U. S. mileage from the border point to the destination in the United States, in the manner indicated in the following example:

Example: A shipment from Winnipeg, Manitoba, to St. Paul, Minn., routed via Emerson, Manitoba—Through Express Charges \$10.00.

Mileage: Winnipeg, Man., to Emerson (C.H.), Man.....	65 miles
Emerson (C.H.), Man., to St. Paul, Minn.....	417 miles
Total mileage.....	482 miles

Multiply \$10.00 (Express Charges) by 417 (mileage in the United States) = 4170. Divide 4170 by 482 (total through mileage) = \$8.65, the proportion of Express Charges from the border point to destination. Tax on \$8.65 (at one cent for each 20 cents) = 44 cents.

2. The express company becomes responsible for making these War Tax collections and accounting therefor to the Government.

3. The War Tax must in all cases be collected from the *Consignees on Collect* shipments and from the *shippers on prepaid* shipments with the exception that on *prepaid* shipments rebilled at border points or billed through from a point without the United States to a point within the United States the War Tax must be collected from the *consignees.*

4. The law provides a penalty of not more than \$1000 or imprisonment for not more than one year, or both, at the discretion of the Court, and in addition thereto a penalty of double the Tax, for failure to collect or truly to account for and pay over the Tax.

5. *The Tax applies to*

- (a) Express transportation charges (including valuation charges) on shipments from one point in the United States to another (including the Hawaiian Islands and Alaska).

Express transportation charges (including valuation charges) on shipments destined to foreign countries when consigned to a foreign steamship line or a broker, or an agent, or a representative of the shipper at the port of export.

Exception.—On all shipments for export, prepaid and collect, where war tax is to be waived, the person who pays the transportation charges must file or cause to be filed with the Agent of the Express Company at point of origin a Temporary Exemption Certificate, Form 799.

On collect shipments the Agent at point of origin will send the Temporary Exemption Certificate, Form 799, together with a copy of the waybill covering the shipment to the Agent at port of export by United States mail. It is then necessary for the Agent at destination port of export to obtain from the shipper's representative a Certificate of Exportation—Transportation Tax, Form 798. This Certificate must be obtained to cover every export shipment upon which the war tax is to be waived.

If upon delivery of the shipment Agent at port of export is unable to secure a certificate on Form 798, the War Tax must be collected, but the tax so collected may be refunded if claimed at any time within thirty days after arrival of the shipment upon delivery by claimant of certificate on Form 798, properly executed.

On prepaid shipments the Agent at point of origin must collect the war tax, but if the shipper files temporary certificate, Form 799, with the Agent at point of origin at the time the tax is paid and subsequently, within thirty days after exportation, files with the agent Exportation Certificate—Transportation Tax Form 798, the agent must refund the war tax.

Refunds of War Tax must be made on refund voucher, Form 41, and must be supported by Temporary Exemption Certificate, Form 799, and also certificate of exportation, Form 798.

In all cases where Temporary Exemption Certificates have not been filed on export shipments the tax must be collected and subsequent refund must not be made. Such refund can then only be obtained by claim for refund filed by the party paying the tax, with the Commissioner of Internal Revenue, Washington, D. C.

No war tax shall be collected on export shipments billed "through" by express to points in foreign countries, and it is not necessary for Agents to obtain certificates referred to herein on such shipments.

The above forms can be procured by the shippers from any Collector of Internal Revenue or from the Commissioner of Internal Revenue at Washington, D. C.

The amount paid for transportation of property from an interior point in the United States to the port of export consigned to a point in the Canal Zone.

The amount paid for transportation within the United States of property transported from a point without the United States (including the Philippine Islands, Porto Rico, Cuba, Canal Zone, the Virgin Islands, Canada and Mexico) to a point within the United States.

- (b) Charges for switching, floating and lightering, refrigeration and salt, disinfecting and cleaning cars, demurrage or track storage, *when covered by specific express tariff rates* and collected from shipper or consignee. [See Item 6 (f).]
- (c) Additional tariff charges for partial loading or partial unloading in transit.
- (d) Local pick up and delivery charges on carload shipments assessed by the Express Company in addition to regular transportation charges.
- (e) Charges to cover the cost of the delivery of shipments consigned to or in care of freight lines at New York, N. Y., Brooklyn, N. Y., Hoboken, N. J., Jersey City, N. J., or Chicago, Ill. (See Item 104, I. C. C. No. A-2095.)
- (f) Charges to cover the cost of delivery of shipments consigned to Foreign Steamship Lines at New York, N. Y., Brooklyn, N. Y., Hoboken, N. J., or Jersey

City, N. J. (See Item 105-A, of Supplement No. 2 to I. C. C. No. A-2095.)

- (g) The fee of 10 cents charged in connection with C. O. D. instructions under Items 14(f) and 14(g), pages 17 and 18, Official Express Classification No. 26; that is, for return of a duplicate C. O. D. wrapper bearing copy of shipper's instructions as authority for releasing C. O. D., or for approving and forwarding shipper's request that a C. O. D. shipment be delivered to another consignee, or that the amount of the C. O. D. be reduced, or that the consignee be relieved of payment of charges or that delivery be made without collecting the amount of the C. O. D.
- (h) All charges entered on waybills covering items handled under Money Classification, pages 40 to 42, inclusive, of Official Express Classification No. 26.
- (i) Mileage and Rental charges *assessed under Express Tariffs* for live fish tank cars, or other special car service, collected from shipper for account of the Railroad Company.

6. The Tax does not apply to

- (a) Shipments on which the express charges are paid by
 - The United States.
 - The District of Columbia.
 - States or Territories.
 - Counties.
 - Cities.
 - Towns.
 - School Districts.
 - Drainage Districts.
 - State Universities.
 - County Poor Houses.
 - Public Libraries.
 - Federal Reserve Banks.
 - Any other Governmental Bodies or Institutions.
 - The American Red Cross.

The right to exemption from the tax must be evidenced in one of the following ways:

- (1) Payment of the charges directly to the carrier by the Government to which the services are rendered. This includes shipments delivered upon the accom-

plishment of a Government Bill of Lading.

- (2) A standard form of exemption certificate for use of the Federal Government and the American Red Cross, substantially in form as shown on page 3.

Where charges are collected on charge accounts from the American Red Cross, however, one exemption certificate should be taken for each bill collected.

The Government and the Red Cross furnish their officers and employees with forms as shown on page 3.

whose behalf the certificate is issued. The exemption certificate for property must be delivered to the agent by the person paying the charges when the charges are paid; otherwise there shall be no exemption from the tax.

Agents shall, in accepting exemption certificates, see that they are properly filled out. In accepting any evidence of the right to exemption, agents shall note on their records, opposite the entry of the collection, reference to such evidence; they must fill in date order and retain

Transportation agents should not accept this certificate unless satisfied, through the production of proper credentials or otherwise, that the person who signed it is an officer or employee of the Federal Government.

TREASURY DEPARTMENT,
Office Commissioner of Internal Revenue.
Form 750.

EXEMPTION CERTIFICATE.
War tax on transportation of property.

Date

Place of payment of charges.....
Name of carrier collecting charges.....

I certify that the transportation charges on the property described in the waybill, bill of lading, freight bill, or express receipt, dated.....covering a shipment carried from.....to....., in car initial and No. or vessel named....., to which this exemption certificate is attached, have been, or will be, paid by the United States, and that the transportation charges thereon amounting to \$..... are exempt under Section 502 of the war revenue act of October 3, 1917, from the tax imposed by said act.

(Federal department or establishment.)

(Signature of governmental officer or employee.)

PENALTY FOR FRAUDULENT USE, \$1,000
AND IMPRISONMENT.

(Title.)

NOTE.—A separate exemption certificate will be required for each consignment. A blanket certificate covering two or more consignments or a given period will not be accepted as evidence of right to exemption.

- (3) A form of exemption certificate, substantially in accord with the form shown on page 3, for use by any of the States or Alaska or Hawaii, or any political subdivision thereof, or the District of Columbia, showing the political subdivision by which the charges have been or will be paid.

These forms must be furnished by the state or municipal representative from whom the express charges are collected. The credentials referred to on the margin of the exemption certificate are such papers, documents, or other evidences as will reasonably assure the agent, or other employee collecting the transportation charge, that the officer or employee issuing such certificate is an officer or employee of the Government on

at their office, all such exemption certificates honored by them, subject to inspection.

The Treasury Department of the United States has ruled as follows:

Where a contractor does work for the Government, the contract price of which is a lump sum, the exemption does not apply to amounts paid for transportation of property used or to be used by the contractor in connection with the work.

- (b) Shipments of commodities owned by the express company and handled by it for use in the conduct of its own business.
- (c) Shipments of commodities belonging to railroad and steamship contract lines handled by the express company on dead-head billing under prevailing instructions. (The General Accounting Department will assess and collect express charges and the War Tax for transportation

services on one contract line for the benefit of another.)

- (d) Customs duties, manifest fees, or charges for feed.
- (e) Marine insurance or war risk charges, when not included in the rate.
- (f) Charges for switching, floating and lighterage or fares of extra attendants, *when assessed under railroad or water line tariffs, and the express company acts as agent in making collection from shipper or consignee, and accounting therefor to the railroad.* These collections will include such war taxes as the railroad or water line carrier assesses under the law. [See Item 5 (b).]

Note.—Amounts paid by the Express Company to Railroads for switching charges, when such charges are absorbed by the Express Company, and are not passed on to the shipper, are not subject to the transportation tax imposed by section 500 (a) of the act of October 3, 1917. If switching bills are presented by Railroads including a war tax on the switching charge when the Company is to absorb such switching charge the Railroad Company should be requested to reduce the bill, eliminating the war tax, referring to ruling made by B. C. Keith, Deputy Commissioner of Internal Revenue, Washington, D. C., December 6, 1918.

- (g) Shipments carried at reduced rates for the American Red Cross when the express charges, as such, are paid from its funds.

Express charges for personal property of Red Cross Officers or Employees, as well as charges on donations to the Red Cross paid by individuals or Associations out of funds other than Red Cross funds, *are not exempt from tax.*

- (h) Empties returned free. (The rate applied to the forward movement includes compensation for the return of the empty, and the War Tax is collected on the charges for transportation of the container when full.)
- (i) Fees for advance of purchase price or for filled commissions.
- (j) Charges on paid C. O. D.'s and collections when remittance is made by check or money order.
- (k) Advances of all kinds, except as stated in item 33 (b).
- (l) Stoppage-in-transit charges. Cost of telegrams, etc.

- (m) Local city hauls in connection with which no rail service is performed.

7. On shipments, the destination of which is changed in transit, and on reconsignments made within the time limits prescribed by tariffs, the War Tax should be computed on the through charges assessed thereon. In all other cases of reconsignment (including shipments reconsigned after arrival, and those returned or forwarded from "On Hand") the tax must be computed separately on the charges covering each movement.

8. The following is a simple rule for ascertaining the amount of tax to be collected on each shipment:

Multiply the number of dollars of the express charges by 5, and for the balance of the express charges add one cent for each 20 cents or fraction thereof. The result will be the War Tax in cents.

Example: If the express charges are \$2.61, multiply 2 by 5 and add 4—2 times 5 equals 10, plus 4 equals 14 cents tax.

For quick reference, the following tax scale is shown for charges up to \$10.00:

Express Charges	War Tax
\$0.20 or less	1 cent
0.21 to \$0.40	2 cents
0.41 " 0.60	3 "
0.61 " 0.80	4 "
0.81 " 1.00	5 "
1.01 " 1.20	6 "
1.21 " 1.40	7 "
1.41 " 1.60	8 "
1.61 " 1.80	9 "
1.81 " 2.00	10 "
2.01 " 2.20	11 "
2.21 " 2.40	12 "
2.41 " 2.60	13 "
2.61 " 2.80	14 "
2.81 " 3.00	15 "
3.01 " 3.20	16 "
3.21 " 3.40	17 "
3.41 " 3.60	18 "
3.61 " 3.80	19 "
3.81 " 4.00	20 "
4.01 " 4.20	21 "
4.21 " 4.40	22 "
4.41 " 4.60	23 "
4.61 " 4.80	24 "
4.81 " 5.00	25 "

Express Charges	War Tax
\$5.01 to \$5.20.....	26 cents
5.21 " 5.40.....	27 "
5.41 " 5.60.....	28 "
5.61 " 5.80.....	29 "
5.81 " 6.00.....	30 "
6.01 " 6.20.....	31 "
6.21 " 6.40.....	32 "
6.41 " 6.60.....	33 "
6.61 " 6.80.....	34 "
6.81 " 7.00.....	35 "
7.01 " 7.20.....	36 "
7.21 " 7.40.....	37 "
7.41 " 7.60.....	38 "
7.61 " 7.80.....	39 "
7.81 " 8.00.....	40 "
8.01 " 8.20.....	41 "
8.21 " 8.40.....	42 "
8.41 " 8.60.....	43 "
8.61 " 8.80.....	44 "
8.81 " 9.00.....	45 "
9.01 " 9.20.....	46 "
9.21 " 9.40.....	47 "
9.41 " 9.60.....	48 "
9.61 " 9.80.....	49 "
9.81 " 10.00.....	50 "

Each Additional 20 cents or fraction thereof, 1 cent.

Note.—For convenient use, a War Tax scale showing the tax on express charges up to \$10 has been printed on Cards, which may be obtained upon requisition to the General Supply Agent. Every driver, helper, receiving clerk, billing clerk, etc., should be furnished with one of these cards to aid them in computing the War Tax correctly and quickly, and to show patrons when necessary.

The following is a method of computing the War Tax on express charges which some employes may find easier to follow than the rule given above.

RULE: *Cut off the last figure of the express charges, divide the remaining figures by 2 and to the result add 1 for the figure cut off. The figure thus ascertained will be the War Tax in cents.*

If, after dividing there is a remainder, drop it. See examples (a), (c), (e), (i), (j), (l).

If the figure cut off is 0 and the remaining figures are exactly divisible by 2, do not add 1. See examples (d) and (g).

Examples

Express Charges					War Tax
(a) \$.76	Cut off 6,	7 divided by 2 equals	3, add 1, equals		4 cents
(b) .83	" " 3,	8 " " 2 "	4, " 1 "		5 "
(c) .94	" " 4,	9 " " 2 "	4, " 1 "		5 "
(d) 1.20	" " 0,	12 " " 2 "	6, " 0, "		6 "
(e) 1.50	" " 0,	15 " " 2 "	7, " 1, "		8 "
(f) 1.62	" " 2,	16 " " 2 "	8, " 1, "		9 "
(g) 1.80	" " 0,	18 " " 2 "	9, " 0, "		9 "
(h) 2.61	" " 1,	26 " " 2 "	13, " 1, "		14 "
(i) 3.90	" " 0,	39 " " 2 "	19, " 1, "		20 "
(j) 5.75	" " 5,	57 " " 2 "	28, " 1, "		29 "
(k) 11.46	" " 6,	114 " " 2 "	57, " 1, "		58 "
(l) 25.90	" " 0,	259 " " 2 "	129, " 1, "		\$1.30

WAR REVENUE TAX ON FREIGHT CHARGES

Law Governing the Tax

Under "The Revenue Act," enacted by Congress and effective Nov. 1st, 1917, the carriage of freight by rail and/or water, as well as motor truck when such service is in competition with rail or water service, is assessed a war tax of 3% of the freight charges that accrue on the consignment. The law, which was amended effective April 1st, 1919, provided for a war tax for freight transportation on all freight with the exception of freight destined to foreign countries and covered by a "Certificate of Exportation."

The provision of "The Revenue Act," under Title V, imposing a penalty for non-compliance, reads as follows:

"That any person required, under Title V, to pay, or to collect, account for and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment, or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return, or supply any such information at the time or times required by law or regulation shall, in addition to other penalties provided by law, be subject to a penalty of not more than \$1,000."

Charges Subject to Tax

The war tax of 3% applies to charges accruing or resulting by the direct or indirect handling of freight by rail, water, or motor truck, and accessory service comprising the following:

- (1) Switching.
- (2) Car Demurrage (if a part of transportation).
- (3) Track storage.
- (4) Storage in stations, warehouses, elevator, piers, or on the ground (if a part of transportation).
- (5) Weighing and re-weighing.
- (6) Handling.
- (7) Diversion or re-consignment.
- (8) Ferry or trap cars.
- (9) Stoppage in transit for assorting, blending, cleaning, dressing, fabrication, in-

spection, malting, milling, mixing, refining, shelling, storage or other purposes.

- (10) Stoppage in transit of live stock, fresh meats, packing house products or other freight for completion of loading or for partial unloading.
- (11) Compression of cotton.
- (12) Elevator services and facilities.
- (13) Icing, refrigeration or ventilation services.
- (14) Heater or insulated car services.
- (15) Car rental, such as rental of refrigerator, live stock, live fish and live poultry cars, and rental of cars used in switching service.
- (16) Feeding, watering, yardage, bedding, dipping, loading or unloading of live stock.
- (17) Cleaning and disinfecting cars.
- (18) Lining cars for freight in bulk.
- (19) Blocking, staking or otherwise securing property in or on cars for safe transportation.
- (20) Transfer in transit.
- (21) Assembling and reloading blocking material for return movement.
- (22) Boxing or crating.
- (23) Dockage, handling and storage of iron ore, pig iron or other freight.
- (24) Delivery of cars of iron ore at destination.
- (25) Transferring coal from cars to vessels and from vessels to cars.
- (26) Lighterage, floating or towage of vessels, and demurrage for detention of vessels.
- (27) Wharfage.
- (28) Trimming cargo in vessels.
- (29) Circus trains.
- (30) Any other service performed or facility furnished by or on behalf of common carriers in connection with the transportation of freight from one point in the United States to any other point in the United States, for which service or facility a charge is made in addition to the transportation rate.

Paying and Collecting Tax

The war tax of 3% must be paid by the person who pays for the service or facilities rendered by a carrier or carriers, and is collected by the person who receives the payment for transportation services or facilities furnished.

Charges Not Subject to Tax

Exemptions as to the collection of the war tax of 3% are made under the following circumstances:

- (1) On any consignment of freight the charges on which amount to sixteen (16c) cents or less.
- (2) Services rendered to the United States or any of the States, or to the District of Columbia, Alaska or Hawaii, including countries, cities, towns or other municipalities.
- (3) Transportation by a carrier of its own material.
- (4) Freight in Transit through the United States. Freight from a point in a foreign country, consigned to a point in a foreign country, passing through any of the States of the United States in transit, including freight consigned to a port of the United States "for export" and delivered by a carrier in the United States to an ocean carrier for export to a foreign country.
- (5) Demurrage and storage (when transportation is completed).
- (6) Drayage or cartage.
- (7) Services performed and facilities furnished in connection with the transportation of freight for account of Governmental agencies shown when Exemption Certificate as per Treasury Department Form No. 750 is furnished by the accredited officer of each agency for each consignment of property.
- (8) Freight consigned or destined to Porto Rico, the Philippine Islands and the Virgin Islands, when the property is transported and delivered to an ocean carrier without stoppage in transit for a business purpose.
- (8) Export freight when transported from a point in the United States to a port in the United States destined to a foreign coun-

try when the requirements of "Temporary Exemption Certificate—Transportation Tax," "Certificate of Exportation—Transportation Tax" and "Foreign Requirements Certificate" are complied with as shown in connection with Treasury Department forms (see pages 368 to 373).

On freight charges which entail a rail carriage from a point in a foreign country such as Canada or Mexico, the transportation charges that accrue within the United States on such property will be the amount upon which the war tax of 3% will be assessed. As an example, if the transportation charge on a shipment from Montreal, Canada, to St. Louis, Mo., is \$200.00, and the haul within the United States from the International Boundary to St. Louis divides between the rail carriers by allowing the lines within the United States \$125.00 and the carriers in Canada \$75.00, the war tax of 3% would be assessed on that portion of revenue accruing to the carriers within the United States (3% of \$125.00, or \$3.75).

Refunds

A tax improperly or illegally assessed is refunded to the person who paid the transportation charges. Claim for refund should be filed with the carrier that collected the charges. The carrier is bound by the regulations of the Commissioner of Internal Revenue governing claims for refunding taxes, section 3220 of United States Revised Statutes, as amended by section 1316 (a) of the Revenue Act of 1918, which authorizes the following procedure between the carrier and the Government:—

"The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all that appear to be unjustly assessed or excessive in amount or in any manner wrongfully collected . . .

ARTICLE 119. WHO SHALL PRESENT CLAIM AND FORM TO BE USED.—Claims for refund of the taxes which may have been erroneously or illegally collected *must be made by the person who actually paid the tax to the transportation company*. Such claims for refund should be pre-

pared on Treasury Department Form 46 (see form 36 page 374) and filed with the Commissioner of Internal Revenue.

ART. 120. EVIDENCE REQUIRED TO SUPPORT CLAIMS FOR REFUND—EXPORT SHIPMENTS.—In submitting claims for refund on Form 46 for taxes alleged to have been erroneously or illegally collected on amounts charged for the transportation of property in the course of exportation, the claimant should submit:

1. The original paid freight bills, or, in cases where shipments are made prepaid and the original bills of lading are received to cover the payment of the charges and tax, these bills of lading should be submitted. If these original receipted bills of lading are submitted, the agent of the carrier issuing them should certify across the face of each that "This is the only and original paid freight receipt issued to cover the payment of the charges and tax on the shipment shown hereon." In cases where order-notify shipments are made prepaid and the original order-notify bills of lading are received to cover the payment of the charges and tax, and these original receipted order-notify bills of lading have been surrendered to the delivering carrier and have become a part of its permanent files and therefore cannot be obtained by the claimant, it will be necessary to submit, in lieu of same, the certificates described below; also a statement from the agent of the carrier issuing the original receipted order-notify bills of lading that "No freight receipt has been issued to cover the payment of the charges and the tax other than the original receipted order-notify bills of lading on the shipment" (identifying it specifically). In case the original paid documents are in the hands of some other agency and not procurable, the following certificate from the auditor of the carrier which received the freight charges and collected the tax should be submitted in lieu of same:

TO THE COMMISSIONER OF INTERNAL REVENUE:

Serial No.

This is to certify that.....

(Name of person paying the freight charge)

on....., paid..... Dollars
(Date of Payment)

for the transportation of property from.....
(Point of Origin)

to....., and on which there was collected
(Point of Destination)

.....dollars tax, and that there has been
.....refund of said freight charges and
(If no refund of all or any part, state "No.")

.....refund of tax, and that no certificate
(If no refund of all or any part, state "No.")
has heretofore been given to said.....

(stating the amount of said freight charges and tax so paid for presentation to the Commissioner of Internal Revenue, and that there will not hereafter be given another certificate for the amount charged on this shipment for presentation to the Commissioner of Internal Revenue, and the number of this certificate will be entered in a record specially kept for the purpose and serially numbered, and that another certificate will not be issued therefor except on authorization from the Commissioner of Internal Revenue).

(Signed).....
(Carrier)

By.....
(Auditor)

and in addition thereto a certificate from the person having the original paid freight bill stating that it is in his possession, the

amount of the freight charges and tax appearing thereon, and the reason for its retention and that he has marked thereon:

Certificate No., issued by.....
(Carrier)

on..... to.....
(Date) (Name of person paying freight charges)

for presentation to the Commissioner of Internal Revenue in claim for refund, and in case the paid freight bill has been lost the certificate by the auditor of the carrier should be submitted with an affidavit by the claimant that he has made diligent search for such paid freight bill and that it is not to be found, that he has never before presented claim for refund for tax paid on such shipment, and that in case the paid freight bill is found it will be forwarded promptly to the Commissioner of Internal Revenue to be attached to the original papers.

2. The original contract, order, or proposal of purchase, certified copy thereof, or certified extract therefrom pursuant to which the property in question was shipped from the point of origin to point of exportation destined to a foreign country;

3. An affidavit by the claimant that the freight moved continuously from point of origin to port of exit and did not stop en route to or at the point of exportation for business purposes, private sale, manufacture, or for any reason other than in accommodation to the means of transportation;

4. A certified copy of the ship's receipt or other evidence of delivery of the freight to a vessel clearing for the foreign port to which the property was destined, or, if destined to Canada or Mexico, a certificate of the customs official or the delivering agent of the transportation company that the property in question was delivered beyond the borders of the United States.

The affidavit on Form 46 must show conclusively that no claim for exemption from the tax was presented at the time of the payment of the transportation charges; that the tax has actually been paid to the Government or to the person designated under the law to collect tax, and that no credits for the tax paid or any part thereof have been made through the adjustment of overcharges and undercharges or otherwise.

ART. 121. EVIDENCE REQUIRED TO SUPPORT CLAIMS FOR REFUND—GOVERNMENTAL EXEMPTIONS—PERSONS AND PROPERTY.—Where claims for refund of transportation taxes paid on the transportation of property are made on Form 46, upon the ground that the transportation service was rendered to an exempt governmental agency, such claims should be supported by the original paid freight bills (or proof, as required in Article 120, on claims for refund on export shipments), showing the amount of tax paid thereon; by the original contract of sale or a certified copy thereof; a verified statement by that official of the governmental agent who audits and pays the transportation accounts and keeps the records pertaining thereto, showing that transportation charges have been paid and borne directly by the particular governmental agency, and by such other evidence as may be necessary to support the said claim for refund.

In the case of the claims for refund of taxes paid on the transportation of persons on the ground of governmental exemption, such claims should be supported by the verified statement of the properly authorized official of the governmental agency authorizing the transportation, certifying that the charges in question were incurred by the claimant in the performance of his official duties, together with evidence of the payment of the tax and any other evidence that may be necessary to support the claim for refund.

The affidavit on Form 46 in both the transportation of persons and property must show conclusively that no claim for exemption from the tax was presented at the time of the payment of the transportation charges; that the tax has actually been paid to the Government or the person designated under the law to collect the tax, and that no credits for the tax paid or any part thereof have been made the claimant through the adjustment of overcharges and undercharges or otherwise.

TABLE FOR DETERMINING WAR TAX ON FREIGHT CHARGES

Effective November 1, 1917

When Freight Charges are		Tax will be	When Freight Charges are		Tax will be	When Freight Charges are		Tax will be	When Freight Charges are		Tax will be
From	To		From	To		From	To		From	To	
\$0.01	\$0.49	\$0.01	\$18.17	\$18.49	\$0.55	\$36.17	\$36.49	\$1.09	\$54.17	\$54.49	\$1.63
.50	.83	.02	18.50	18.83	.56	36.50	36.83	1.10	54.50	54.83	1.64
.84	1.16	.03	18.84	19.16	.57	36.84	37.16	1.11	54.84	55.16	1.65
1.17	1.49	.04	19.17	19.49	.58	37.17	37.49	1.12	55.17	55.49	1.66
1.50	1.83	.05	19.50	19.83	.59	37.50	37.83	1.13	55.50	55.83	1.67
1.84	2.16	.06	19.84	20.16	.60	37.84	38.16	1.14	55.84	56.16	1.68
2.17	2.49	.07	20.17	20.49	.61	38.17	38.49	1.15	56.17	56.49	1.69
2.50	2.83	.08	20.50	20.83	.62	38.50	38.83	1.16	56.50	56.83	1.70
2.84	3.16	.09	20.84	21.16	.63	38.84	39.16	1.17	56.84	57.16	1.71
3.17	3.49	.10	21.17	21.49	.64	39.17	39.49	1.18	57.17	57.49	1.72
3.50	3.83	.11	21.50	21.83	.65	39.50	39.83	1.19	57.50	57.83	1.73
3.84	4.16	.12	21.84	22.16	.66	39.84	40.16	1.20	57.84	58.16	1.74
4.17	4.49	.13	22.17	22.49	.67	40.17	40.49	1.21	58.17	58.49	1.75
4.50	4.83	.14	22.50	22.83	.68	40.50	40.83	1.22	58.50	58.83	1.76
4.84	5.16	.15	22.84	23.16	.69	40.84	41.16	1.23	58.84	59.16	1.77
5.17	5.49	.16	23.17	23.49	.70	41.17	41.49	1.24	59.17	59.49	1.78
5.50	5.83	.17	23.50	23.83	.71	41.50	41.83	1.25	59.50	59.83	1.79
5.84	6.16	.18	23.84	24.16	.72	41.84	42.16	1.26	59.84	60.16	1.80
6.17	6.49	.19	24.17	24.49	.73	42.17	42.49	1.27	60.17	60.49	1.81
6.50	6.83	.20	24.50	24.83	.74	42.50	42.83	1.28	60.50	60.83	1.82
6.84	7.16	.21	24.84	25.16	.75	42.84	43.16	1.29	60.84	61.16	1.83
7.17	7.49	.22	25.17	25.49	.76	43.17	43.49	1.30	61.17	61.49	1.84
7.50	7.83	.23	25.50	25.83	.77	43.50	43.83	1.31	61.50	61.83	1.85
7.84	8.16	.24	25.84	26.16	.78	43.84	44.16	1.32	61.84	62.16	1.86
8.17	8.49	.25	26.17	26.49	.79	44.17	44.49	1.33	62.17	62.49	1.87
8.50	8.83	.26	26.50	26.83	.80	44.50	44.83	1.34	62.50	62.83	1.88
8.84	9.16	.27	26.84	27.16	.81	44.84	45.16	1.35	62.84	63.16	1.89
9.17	9.49	.28	27.17	27.49	.82	45.17	45.49	1.36	63.17	63.49	1.90
9.50	9.83	.29	27.50	27.83	.83	45.50	45.83	1.37	63.50	63.83	1.91
9.84	10.16	.30	27.84	28.16	.84	45.84	46.16	1.38	63.84	64.16	1.92
10.17	10.49	.31	28.17	28.49	.85	46.17	46.49	1.39	64.17	64.49	1.93
10.50	10.83	.32	28.50	28.83	.86	46.50	46.83	1.40	64.50	64.83	1.94
10.84	11.16	.33	28.84	29.16	.87	46.84	47.16	1.41	64.84	65.16	1.95
11.17	11.49	.34	29.17	29.49	.88	47.17	47.49	1.42	65.17	65.49	1.96
11.50	11.83	.35	29.50	29.83	.89	47.50	47.83	1.43	65.50	65.83	1.97
11.84	12.16	.36	29.84	30.16	.90	47.84	48.16	1.44	65.84	66.16	1.98
12.17	12.49	.37	30.17	30.49	.91	48.17	48.49	1.45	66.17	66.49	1.99
12.50	12.83	.38	30.50	30.83	.92	48.50	48.83	1.46	66.50	66.83	2.00
12.84	13.16	.39	30.84	31.16	.93	48.84	49.16	1.47	66.84	67.16	2.01
13.17	13.49	.40	31.17	31.49	.94	49.17	49.49	1.48	67.17	67.49	2.02
13.50	13.83	.41	31.50	31.83	.95	49.50	49.83	1.49	67.50	67.83	2.03
13.84	14.16	.42	31.84	32.16	.96	49.84	50.16	1.50	67.84	68.16	2.04
14.17	14.49	.43	32.17	32.49	.97	50.17	50.49	1.51	68.17	68.49	2.05
14.50	14.83	.44	32.50	32.83	.98	50.50	50.83	1.52	68.50	68.83	2.06
14.84	15.16	.45	32.84	33.16	.99	50.84	51.16	1.53	68.84	69.16	2.07
15.17	15.49	.46	33.17	33.49	1.00	51.17	51.49	1.54	69.17	69.49	2.08
15.50	15.83	.47	33.50	33.83	1.01	51.50	51.83	1.55	69.50	69.83	2.09
15.84	16.16	.48	33.84	34.16	1.02	51.84	52.16	1.56	69.84	70.16	2.10
16.17	16.49	.49	34.17	34.49	1.03	52.17	52.49	1.57	70.17	70.49	2.11
16.50	16.83	.50	34.50	34.83	1.04	52.50	52.83	1.58	70.50	70.83	2.12
16.84	17.16	.51	34.84	35.16	1.05	52.84	53.16	1.59	70.84	71.16	2.13
17.17	17.49	.52	35.17	35.49	1.06	53.17	53.49	1.60	71.17	71.49	2.14
17.50	17.83	.53	35.50	35.83	1.07	53.50	53.83	1.61	71.50	71.83	2.15
17.84	18.16	.54	35.84	36.16	1.08	53.84	54.16	1.62	71.84	72.16	2.16

TABLE FOR DETERMINING WAR TAX ON FREIGHT CHARGES

Effective November 1, 1917

When Freight Charges are		Tax will be	When Freight Charges are		Tax will be	When Freight Charges are		Tax will be	When Freight Charges are		Tax will be
From	To		From	To		From	To		From	To	
872.17	872.49	\$2.17	890.17	890.49	\$2.71	8108.17	8108.49	\$3.25	8126.17	8126.49	\$3.79
72.50	72.83	2.18	90.50	90.83	2.72	108.50	108.83	3.26	126.50	126.83	3.80
72.84	73.16	2.19	90.84	91.16	2.73	108.84	109.16	3.27	126.84	127.16	3.81
73.17	73.49	2.20	91.17	91.49	2.74	109.17	109.49	3.28	127.17	127.49	3.82
73.50	73.83	2.21	91.50	91.83	2.75	109.50	109.83	3.29	127.50	127.83	3.83
73.84	74.16	2.22	91.84	92.16	2.76	109.84	110.16	3.30	127.84	128.16	3.84
74.17	74.49	2.23	92.17	92.49	2.77	110.17	110.49	3.31	128.17	128.49	3.85
74.50	74.83	2.24	92.50	92.83	2.78	110.50	110.83	3.32	128.50	128.83	3.86
74.84	75.16	2.25	92.84	93.16	2.79	110.84	111.16	3.33	128.84	129.16	3.87
75.17	75.49	2.26	93.17	93.49	2.80	111.17	111.49	3.34	129.17	129.49	3.88
75.50	75.83	2.27	93.50	93.83	2.81	111.50	111.83	3.35	129.50	129.83	3.89
75.84	76.16	2.28	93.84	94.16	2.82	111.84	112.16	3.36	129.84	130.16	3.90
76.17	76.49	2.29	94.17	94.49	2.83	112.17	112.49	3.37	130.17	130.49	3.91
76.50	76.83	2.30	94.50	94.83	2.84	112.50	112.83	3.38	130.50	130.83	3.92
76.84	77.16	2.31	94.84	95.16	2.85	112.84	113.16	3.39	130.84	131.16	3.93
77.17	77.49	2.32	95.17	95.49	2.86	113.17	113.49	3.40	131.17	131.49	3.94
77.50	77.83	2.33	95.50	95.83	2.87	113.50	113.83	3.41	131.50	131.83	3.95
77.84	78.16	2.34	95.84	96.16	2.88	113.84	114.16	3.42	131.84	132.16	3.96
78.17	78.49	2.35	96.17	96.49	2.89	114.17	114.49	3.43	132.17	132.49	3.97
78.50	78.83	2.36	96.50	96.83	2.90	114.50	114.83	3.44	132.50	132.83	3.98
78.84	79.16	2.37	96.84	97.16	2.91	114.84	115.16	3.45	132.84	133.16	3.99
79.17	79.49	2.38	97.17	97.49	2.92	115.17	115.49	3.46	133.17	133.49	4.00
79.50	79.83	2.39	97.50	97.83	2.93	115.50	115.83	3.47	133.50	133.83	4.01
79.84	80.16	2.40	97.84	98.16	2.94	115.84	116.16	3.48	133.84	134.16	4.02
80.17	80.49	2.41	98.17	98.49	2.95	116.17	116.49	3.49	134.17	134.49	4.03
80.50	80.83	2.42	98.50	98.83	2.96	116.50	116.83	3.50	134.50	134.83	4.04
80.84	81.16	2.43	98.84	99.16	2.97	116.84	117.16	3.51	134.84	135.16	4.05
81.17	81.49	2.44	99.17	99.49	2.98	117.17	117.49	3.52	135.17	135.49	4.06
81.50	81.83	2.45	99.50	99.83	2.99	117.50	117.83	3.53	135.50	135.83	4.07
81.84	82.16	2.46	99.84	100.16	3.00	117.84	118.16	3.54	135.84	136.16	4.08
82.17	82.49	2.47	100.17	100.49	3.01	118.17	118.49	3.55	136.17	136.49	4.09
82.50	82.83	2.48	100.50	100.83	3.02	118.50	118.83	3.56	136.50	136.83	4.10
82.84	83.16	2.49	100.84	101.16	3.03	118.84	119.16	3.57	136.84	137.16	4.11
83.17	83.49	2.50	101.17	101.49	3.04	119.17	119.49	3.58	137.17	137.49	4.12
83.50	83.83	2.51	101.50	101.83	3.05	119.50	119.83	3.59	137.50	137.83	4.13
83.84	84.16	2.52	101.84	102.16	3.06	119.84	120.16	3.60	137.84	138.16	4.14
84.17	84.49	2.53	102.17	102.49	3.07	120.17	120.49	3.61	138.17	138.49	4.15
84.50	84.83	2.54	102.50	102.83	3.08	120.50	120.83	3.62	138.50	138.83	4.16
84.84	85.16	2.55	102.84	103.16	3.09	120.84	121.16	3.63	138.84	139.16	4.17
85.17	85.49	2.56	103.17	103.49	3.10	121.17	121.49	3.64	139.17	139.49	4.18
85.50	85.83	2.57	103.50	103.83	3.11	121.50	121.83	3.65	139.50	139.83	4.19
85.84	86.16	2.58	103.84	104.16	3.12	121.84	122.16	3.66	139.84	140.16	4.20
86.17	86.49	2.59	104.17	104.49	3.13	122.17	122.49	3.67	140.17	140.49	4.21
86.50	86.83	2.60	104.50	104.83	3.14	122.50	122.83	3.68	140.50	140.83	4.22
86.84	87.16	2.61	104.84	105.16	3.15	122.84	123.16	3.69	140.84	141.16	4.23
87.17	87.49	2.62	105.17	105.49	3.16	123.17	123.49	3.70	141.17	141.49	4.24
87.50	87.83	2.63	105.50	105.83	3.17	123.50	123.83	3.71	141.50	141.83	4.25
87.84	88.16	2.64	105.84	106.16	3.18	123.84	124.16	3.72	141.84	142.16	4.26
88.17	88.49	2.65	106.17	106.49	3.19	124.17	124.49	3.73	142.17	142.49	4.27
88.50	88.83	2.66	106.50	106.83	3.20	124.50	124.83	3.74	142.50	142.83	4.28
88.84	89.16	2.67	106.84	107.16	3.21	124.84	125.16	3.75	142.84	143.16	4.29
89.17	89.49	2.68	107.17	107.49	3.22	125.17	125.49	3.76	143.17	143.49	4.30
89.50	89.83	2.69	107.50	107.83	3.23	125.50	125.83	3.77	143.50	143.83	4.31
89.84	90.16	2.70	107.84	108.16	3.24	125.84	126.16	3.78	143.84	144.16	4.32

OVER \$144.16—Multiply freight charge by .03; fractions of one-half ($\frac{1}{2}$) cent or over to be counted as one (1) cent; fractions less than one-half ($\frac{1}{2}$) cent to be dropped.



THE Interstate Commerce Act

REVISED TO APRIL 1, 1920

The Interstate Commerce act, comprising: An act to regulate commerce, approved February 4, 1887, and in effect April 5, 1887 (24 Statutes at Large, 379), as amended by an act approved March 2, 1889 (25 Statutes at Large, 855), by an act approved February 10, 1891 (26 Statutes at Large, 743), by an act approved February 8, 1895 (28 Statutes at Large, 643), by an act approved June 29, 1906 (34 Statutes at Large, 584), by a joint resolution approved June 30, 1906 (34 Statutes at Large, 838), by an act approved April 13, 1908 (35 Statutes at Large, 60), by an act approved February 25, 1909 (35 Statutes at Large, 648), by an act approved June 18, 1910 (36 Statutes at Large, 539), by an act approved August 24, 1912 (37 Statutes at Large, 566), by an act approved March 1, 1913 (37 Statutes at Large, 701), by an act approved March 4, 1915 (38 Statutes at Large, 1196), by an act approved August 9, 1916 (39 Statutes at Large, 441), by an act approved August 29, 1916 (39 Statutes at Large, 538), by an act approved August 29, 1916 (39 Statutes at Large, 619), by an act approved February 17, 1917 (39 Statutes at Large, 922), by an act approved March 2, 1917 (39 Statutes at Large, 951), by an act approved May 29, 1917 (40 Statutes at Large, 101), by an act approved August 9, 1917 (40 Statutes at Large, 270), by an act approved August 10, 1917 (40 Statutes at Large, 272), and by an act approved February 28, 1920 (41 Statutes at Large, 456).

THE INTERSTATE COMMERCE ACT

Being the Act to Regulate Commerce as Amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. *[As amended June 29, 1906, April 13, 1908, June 18, 1910, February 17, 1917, March 2, 1917, May 29, 1917, August 10, 1917, and February 28, 1920.]*

(1) That the provisions of this Act shall apply to common carriers engaged in—

(a) The transportation of passengers or property wholly by railroad or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or

(c) The transmission of intelligence by wire or wireless;—
from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation or transmission takes place within the United States.

(2) The provisions of this Act shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid;

(b) To the transmission of intelligence by wire or wireless wholly within one State and not transmitted to or from a foreign country from or to any place in the United States as aforesaid; or

(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this Act except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(3) The term "common carrier" as used in this Act shall include all pipe-line companies; telegraph, telephone, and cable companies operating by wire or wireless; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation or transmission as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this Act it shall be held to mean "common carrier." The term "railroad" as used in this Act shall include all bridges, car floats, lighters and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in

41 Stat. L., 474.
Act applies to common carriers engaged in—

—transportation by railroad, or by railroad and water.

—transportation by pipe line.

—transmission of intelligence.

—between what points Act applies within United States.

—transportation or transmission to, from, or through foreign country.

Act applies to transportation or transmission only within United States.

—inapplicable to intrastate transportation.

Act inapplicable to intrastate transmission.

—inapplicable to water transportation merely because rail charges absorbed by water line.

What included in term "Common carrier."

"Carrier means 'common carrier.'"

What included in term "railroad."

What included in term "transportation."

What included in term "transmission."

"Messages" defined.

Common carrier duties; to provide and furnish transportation.

Through routes and just and reasonable rates.

Facilities and rules for through routes.

Divisions to be reasonable, not unduly preferential or prejudicial.

Transportation or transmission charges to be just and reasonable.

Classification of messages, different rates.

Contracts for exchange of services.

Just and reasonable classification of property for transportation required.

Just and reasonable transportation regulations and practices required.

34 Stat. L., 584.
Free passes and free transportation prohibited.
Excepted classes.

the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this Act shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipments or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "transmission" as used in this Act shall include the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or appliances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted, hereinafter also collectively called messages.

(4) It shall be the duty of every common carrier subject to this Act engaged in the transportation of passengers or property to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers subject to this Act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property or in the transmission of intelligence by wire or wireless as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful: *Provided*, That messages by wire or wireless subject to the provisions of this Act may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government, and such other classes as are just and reasonable, and different rates may be charged for the different classes of messages: *And provided further*, That nothing in this Act shall be construed to prevent telephone, telegraph, and cable companies from entering into contracts with common carriers for the exchange of services.

(6) It is hereby made the duty of all common carriers subject to the provisions of this Act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this Act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this Act upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.

(7) No common carrier subject to the provisions of this Act shall, after January first, nineteen hundred and seven, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees

and their families, its officers, agents, surgeons, physicians, and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute, and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of live stock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to Railway Mail Service employees, post-office inspectors, customs inspectors, and immigration inspectors; to newsboys on-trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: *And provided further*, That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees and their families of other common carriers subject to the provisions of this Act: *Provided further*, That the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier, and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier. Any common carrier violating this provision shall be deemed guilty of a misdemeanor, and for each offense, on conviction shall pay to the United States a penalty of not less than one hundred dollars nor more than two thousand dollars, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and any amendment thereof. [See also section 22, page 218.]

(8) From and after May first, nineteen hundred and eight, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

(9) Any common carrier subject to the provisions of this Act, upon application of any lateral branch line of railroad, or of any shipper tendering interstate traffic for transportation, shall construct, maintain, and operate upon reasonable terms a switch connection with any such lateral branch line of railroad, or private side

Interchange of passes.

Free carriers of passengers in case of calamity.
36 Stat. L., 539.

Exchange of passes or franks between transmission and other carriers.

35 Stat. L., 60.

What terms "employees" and "families" include.

Penalty.

34 Stat. L., 584.

Jurisdiction of offenses hereunder.

34 Stat. L., 584.

Transportation by railroad of certain commodities prohibited.

Exception.

Carriers' duty to construct and operate switch connections.

34 Stat. L., 584.

track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against such shipper. If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper or owner of such lateral branch line of railroad, such shipper or owner of such lateral branch line of railroad may make complaint to the Commission, as provided in section thirteen of this Act, and the Commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor, and the Commission may make an order, as provided in section fifteen of this Act, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the Commission, other than orders for the payment of money.

(10) The term "car service" in this Act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this Act.

(11) It shall be the duty of every carrier by railroad subject to this Act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the United States the sum of \$100 for each offense, which may be recovered in a civil action brought by the United States.

(13) The Commission is hereby authorized by general or special orders to require all carriers by railroad subject to this Act, or any of them, to file with it from time to time their rules and regulations with respect to car service, and the Commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares and charges for transportation, and be subject to any or all of the provisions of this Act relating thereto.

(14) The Commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations and practices with respect to car service by carriers by railroad subject to this Act, including the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it, and the penalties or other sanctions for nonobservance of such rules, regulations, or practices.

(15) Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if

36 Stat. L., 539.

34 Stat. L., 584.
Commission may order switch connections.

Enforcement of order.

41 Stat. L., 476.
40 Stat. L., 101.
What included in term "car service."

41 Stat. L., 476.
Character of required car service, and rules and practices.

Just and reasonable distribution of coal cars required.

Ratings of mines during car shortage.

Penalty.

Commission may require filing of car service rules and regulations.

Incorporation in schedules; subject to Act.

Commission may establish rules, regulations, or practices.

Compensation and penalties.

Power of Commission when emergency exists.

it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded.

(16) Whenever the Commission is of opinion that any carrier by railroad subject to this Act is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable.

(17) The directions of the Commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the Commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this Act, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the Commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction, such carrier, receiver, or trustee shall be liable to a penalty of not less than \$100 nor more than \$500 for each such offense and \$50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: *Provided*, however, That nothing in this Act shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this Act.

(18) After ninety days after this paragraph takes effect no carrier by railroad subject to this Act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this Act over or by means of such additional or extended line of railroad, unless and until there shall

—suspension
established rules.

—directions as to car
service, fixation of
compensation.

Power of commission
requirement of joint or
common use of ter-
minals.

—description of terms.

—preference, priority,
embargoes, and move-
ment under permit.

—priority upon certi-
ficate of President.

Routing of traffic.

Fixation of terms
when carriers disagree.

Commission's direc-
tions given through
agencies.

Compliance by car-
riers required.

Penalty.

Preservation of State
police power.

Certificate of con-
venience and necessity,
when required.

No abandonment of line without certificate from Commission.

Procedure upon application for certificate.

Notice.

Right to be heard.

Certificate may be refused, or issued as prayed or partially.

Terms and conditions attached to issuance.

Other approval unnecessary.

Injunction against unauthorized construction, operation or abandonment.

Penalty.

Commission may require provision of facilities for car service.

Extension of lines.

Prerequisite findings as to convenience, necessity and ability.

Penalty.

When certificate not required.

first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this Act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment.

(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this Act shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years, or both.

(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this Act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this Act, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension of facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this Act which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of \$100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(22) The authority of the Commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, indus-

trial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation.

(23) That on and after the approval of this Act any person or persons who shall, during the war in which the United States is now engaged, knowingly and willfully, by physical force or intimidation by threats of physical force obstruct or retard, or aid in obstructing or retarding, the orderly conduct or movement in the United States of interstate or foreign commerce, or the orderly make-up or movement or disposition of any train, or the movement or disposition of any locomotive, car, or other vehicle on any railroad or elsewhere in the United States engaged in interstate or foreign commerce shall be deemed guilty of a misdemeanor, and for every such offense shall be punishable by a fine of not exceeding \$100 or by imprisonment for not exceeding six months, or by both such fine and imprisonment; and the President of the United States is hereby authorized, whenever in his judgment the public interest requires, to employ the armed forces of the United States to prevent any such obstruction or retardation of the passage of the mail, or of the orderly conduct or movement of interstate or foreign commerce in any part of the United States, or of any train, locomotive, car or other vehicle upon any railroad or elsewhere in the United States engaged in interstate or foreign commerce: *Provided*, That nothing in this section shall be construed to repeal, modify, or affect either section six or section twenty of an Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October fifteenth, nineteen hundred and fourteen.

(24) That during the continuance of the war in which the United States is now engaged the President is authorized, if he finds it necessary for the national defense and security, to direct that such traffic or such shipment of commodities as, in his judgment, may be essential to the national defense and security shall have preference or priority in transportation by any common carrier by railroad, water, or otherwise. He may give these directions at and for such times as he may determine, and may modify, change, suspend, or annul them, and for any such purpose he is hereby authorized to issue orders direct, or through such person or persons as he may designate for the purpose or through the Interstate Commerce Commission. Officials of the United States, when so designated, shall receive no compensation for their services rendered hereunder. Persons not in the employ of the United States so designated shall receive such compensation as the President may fix. Suitable offices may be rented and all necessary expenses, including compensation of persons so designated, shall be paid as directed by the President out of funds which may have been or may be provided to meet expenditures for the national security and defense. The common carriers subject to the Act to regulate commerce or as many of them as desire so to do are hereby authorized without responsibility or liability on the part of the United States, financial or otherwise, to establish and maintain in the city of Washington during the period of the war an agency empowered by such carriers as join in the arrangement to receive on behalf of them all notice and service of such orders and directions as may be issued in accordance with this Act, and service upon such agency shall be good service as to all the carriers joining in the establishment thereof. And it shall be the duty of any and all the officers, agents, or employees of such carriers by railroad or water or otherwise to obey strictly and conform promptly to such orders, and failure knowingly and willfully to comply therewith, or to do or perform whatever is necessary to the prompt execution of such order, shall render such officers, agents, or employees guilty of a misdemeanor, and any such officer, agent, or employee shall, upon conviction, be fined not more than \$5,000, or imprisoned not more than one year, or both, in the

Independently operated electric railways excepted.

40 Stat. L., 272.

Penalty during war for obstruction of interstate commerce.

President may prevent obstruction or retardation.

Proviso, as to Clayton antitrust act.

40 Stat. L., 272.

President may direct priority in transportation during war.

How direction may be given.

Administrative facilities authorized.

Carriers may maintain agency in Washington.

Service upon agency good as to carriers.

Carriers to obey orders.

Penalties.

Rates fixed by the Commission.

Payment for Government transportation.

Carrier complying exempt from penalties and liabilities.

24 Stat. L., 379.
41 Stat. L., 479.

Unjust discrimination defined and prohibited.

24 Stat. L., 379.
41 Stat. L., 479.

Undue or unreasonable preference or advantage forbidden.

Carrier not to deliver freight until charges paid.

Exception, rules as to credit prescribed by Commission.

Freight for Federal, State, or local government.

Facilities for interchange of traffic.

Discrimination between connecting lines forbidden.

Commission may require common use of terminals.

discretion of the court. For the transportation of persons or property in carrying out the orders and directions of the President just and reasonable rates shall be fixed by the Interstate Commerce Commission; and if the transportation be for the Government of the United States, it shall be paid for currently or monthly by the Secretary of the Treasury out of any funds not otherwise appropriated. Any carrier complying with any such order or direction for preference or priority herein authorized shall be exempt from any and all provisions in existing law imposing civil or criminal pains, penalties, obligations, or liabilities upon carriers by reason of giving preference or priority in compliance with such order or direction.

SEC. 2. [*As amended February 28, 1920.*] That if any common carrier subject to the provisions of this Act shall, directly or indirectly, by any special rate, rebate, drawback, or other device charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property or the transmission of intelligence, subject to the provisions of this Act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation or transmission of a like kind of traffic or message under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

SEC. 3. [*As amended February 28, 1920.*] That it shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(2) From and after July 1, 1920, no carrier by railroad subject to the provisions of this Act shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to assure prompt payment of all such rates and charges and to prevent unjust discrimination: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia.

(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.

(4) If the Commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including main-line track or tracks for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected

may agree upon, or, in the event of a failure to agree, as the Commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries sustained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be.

Fixation of terms and compensation.

Recovery of damages by carrier whose facilities are used.

SEC. 4. [As amended June 18, 1910, and February 28, 1920.] (1) That it shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this Act, but this shall not be construed as authorizing any common carrier within the terms of this Act to charge or receive as great compensation for a shorter as for a longer distance: *Provided*, That upon application to the Commission such common carrier may in special cases, after investigation, be authorized by the Commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section; but in exercising the authority conferred upon it in this proviso the Commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and if a circuitous rail line or route is, because of such circuitry, granted authority to meet the charges of a more direct line or route to or from competitive points and to maintain higher charges to or from intermediate points on its line, the authority shall not include intermediate points as to which the haul of the petitioning line or route is not longer than that of the direct line or route between the competitive points; and no such authorization shall be granted on account of merely potential water competition not actually in existence: *And provided further*, That rates, fares, or charges existing at the time of the passage of this amendatory Act by virtue of orders of the Commission or as to which application has theretofore been filed with the Commission and not yet acted upon, shall not be required to be changed by reason of the provisions of this section until the further order of or a determination by the Commission.

24 Stat. L., 379.
36 Stat. L., 539.
41 Stat. L., 480.

Long and short haul provision.

Relief, by Commission, from operation of section.

Charge for longer distance to be reasonably compensatory.

Intermediate rates, on circuitous lines.

Merely potential water competition not ground for relief.

Maintenance of existing rates pending order by Commission.

(2) Wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points it shall not be permitted to increase such rates unless after hearing by the Commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition.

Rates reduced to meet water competition not raised without finding by Commission.

SEC. 5. [As amended August 24, 1912, and February 28, 1920.] (1) That, except upon specific approval by order of the Commission as in this section provided, and except as provided in paragraph (16) of section 1 of this Act, it shall be unlawful for any common carrier subject to this Act to enter into any contract, agreement,

24 Stat. L., 379.
41 Stat. L., 480.
Pooling of freight and division of earnings forbidden.

or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid each day of its continuance shall be deemed a separate offense: *Provided*, That whenever the Commission is of opinion, after hearing upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this Act, or upon its own initiative, that the division of their traffic or earnings, to the extent indicated by the Commission, will be in the interest of better service to the public, or economy in operation, and will not unduly restrain competition, the Commission shall have authority by order to approve and authorize, if assented to by all the carriers involved, such division of traffic or earnings under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable in the premises.

Commission may permit, with assent of carriers.

Acquisition of control by lease, purchase of stock, or otherwise.

Authorization by Commission terms.

Supplemental orders

Consolidation of rail-ways—

—Commission to adopt comprehensive plan.

— competition and trade channels preserved.

Hearings upon tentative plan of consolidation.

Adoption of plan; publication; modifications.

When railroads may be consolidated; conditions—

(2) Whenever the Commission is of opinion, after hearing, upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this Act, that the acquisition, to the extent indicated by the Commission, by one of such carriers of the control of any other such carrier or carriers either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, will be in the public interest, the Commission shall have authority by order to approve and authorize such acquisition, under such rules and regulations and for such consideration and on such terms and conditions as shall be found by the Commission to be just and reasonable in the premises.

(3) The Commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1) or (2), as it may deem necessary or appropriate.

(4) The Commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained. Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties.

(5) When the Commission has agreed upon a tentative plan, it shall give the same due publicity and upon reasonable notice, including notice to the Governor of each State, shall hear all persons who may file or present objections thereto. The Commission is authorized to prescribe a procedure for such hearings and to fix a time for bringing them to a close. After the hearings are at an end, the Commission shall adopt a plan for such consolidation and publish the same; but it may at any time thereafter, upon its own motion or upon application, reopen the subject for such changes or modifications as in its judgment will promote the public interest. The consolidations herein provided for shall be in harmony with such plan.

(6) It shall be lawful for two or more carriers by railroad, subject to this act, to consolidate their properties, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the Commission.

—harmony with general plan; approval.

(b) The bonds at par of the corporation which is to become the owner of the consolidated properties, together with the outstanding capital stock at par of such corporation, shall not exceed the value of the consolidated properties as determined by the Commission. The value of the properties sought to be consolidated shall be ascertained by the Commission under section 19a of this Act, and it shall be the duty of the Commission to proceed immediately to the ascertainment of such value for the properties involved in a proposed consolidation upon the filing of the application for such consolidation.

—stocks and bonds not to exceed value of properties.

When railroads may be consolidated—ascertainment of value.

(c) Whenever two or more carriers propose a consolidation under this section, they shall present their application therefor to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties sought to be consolidated is situated and the carriers involved in the proposed consolidation, of the time and place for a public hearing. If after such hearing the Commission finds that the public interest will be promoted by the consolidation and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, with such modifications and upon such terms and conditions as it may prescribe, and thereupon such consolidation may be effected, in accordance with such order, if all the carriers involved assent thereto, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

—procedure upon application.

—notice.

—order of authorization, terms.

—consolidation effected notwithstanding State law or order.

(7) The power and authority of the Commission to approve and authorize the consolidation of two or more carriers shall extend and apply to the consolidation of four express companies into the American Railway Express Company, a Delaware corporation, if application for such approval and authority is made to the Commission within thirty days after the passage of this amendatory Act; and pending the decision of the Commission such consolidation shall not be dissolved.

Consolidation of express companies.

(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the "antitrust laws," as designated in section 1 of the Act entitled: "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provisions of this section.

Carriers relieved from antitrust and other prohibitions.

(9) From and after the first day of July, nineteen hundred and fourteen, it shall be unlawful for any railroad company or other common carrier subject to the Act to regulate commerce to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly through any holding company, or by stockholders or directors in common, or in any other manner) in any common carrier by water operated through the Panama Canal or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic, or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic; and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense.

37 Stat. L., 566.

Railroads not to own competing water carriers.

Each day's violation a separate offense.

(10) Jurisdiction is hereby conferred on the Interstate Commerce Commission to determine questions of fact as to the competition or possibility of competition, after full hearing, on the application of any railroad company or other carrier.

Commission to determine as to competition.

Such application may be filed for the purpose of determining whether any existing service is in violation of this section and pray for an order permitting the continuance of any vessel or vessels already in operation, or for the purpose of asking an order to install new service not in conflict with the provisions of this paragraph. The Commission may on its own motion or the application of any shipper institute proceedings to inquire into the operation of any vessel in use by any railroad or other carrier which has not applied to the Commission and had the question of competition or the possibility of competition determined as herein provided. In all such cases the order of said Commission shall be final.

(11) If the Interstate Commerce Commission shall be of the opinion that any such existing specified service by water other than through the Panama Canal is being operated in the interest of the public and is of advantage to the convenience and commerce of the people, and that such extension will neither exclude, prevent, nor reduce competition on the route by water under consideration, the Interstate Commerce Commission may, by order, extend the time during which such service by water may continue to be operated beyond July first, nineteen hundred and fourteen. In every case of such extension the rates, schedules, and practices of such water carrier shall be filed with the Interstate Commerce Commission and shall be subject to the Act to regulate commerce and all amendments thereto in the same manner and to the same extent as if the railroad or other common carrier controlling such water carrier or interested in any manner in its operation: *Provided*, Any application for extension under the terms of this provision filed with the Interstate Commerce Commission prior to July first, nineteen hundred and fourteen, but for any reason not heard and disposed of before said date, may be considered and granted thereafter.

Order to be final.

Commission may permit continuance of water line operation by railroads.

Rates, etc., to be filed with Commission.

24 Stat. L., 379.
25 Stat. L., 855.
34 Stat. L., 584.
41 Stat. L., 483.

Schedules, printing and filing; open to public.

Components applicable when no joint rate established.

What schedules shall show.

Posting for public inspection.

Applies to all traffic, transportation, and facilities.

Schedules of rates, freight carried through foreign country.

SEC. 6. [Amended March 2, 1889. Following section substituted June 29, 1906. Amended June 18, 1910, August 24, 1912, August 29, 1916, and February 28, 1920.]

(1) That every common carrier subject to the provisions of this Act shall file with the Commission created by this Act and print and keep open to public inspection schedules showing all the rates, fares, and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, by pipe line, or by water when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection as aforesaid, the separately established rates, fares, and charges applied to the through transportation. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the Commission may require, all privileges or facilities granted or allowed and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected. The provisions of this section shall apply to all traffic, transportation, and facilities defined in this Act.

(2) Any common carrier subject to the provisions of this Act receiving freight in the United States to be carried through a foreign country to any place in the

United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this Act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

Freight subject to customs duties when through rates not published.

(3) No change shall be made in the rates, fares, and charges or joint fares and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after thirty days' notice to the Commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided*, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions: *Provided further*, That the Commission is hereby authorized to make suitable rules and regulations for the simplification of schedules of rates, fares, charges, and classifications and to permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge, or classification without filing complete schedules covering rates, fares, charges or classifications not changed if, in its judgment, not inconsistent with the public interest.

Thirty days' notice of change in rates required.

Commission may modify requirements of this section.

Rules for simplification of schedules and amendments.

(4) The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the Commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the Commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

Joint tariffs to specify carriers participating.

34 Stat. L., 584.

Evidence of concurrence; effect of filing.

(5) Every common carrier subject to this Act shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this Act to which it may be a party.

24 Stat. L., 379.
Copies of traffic contracts and arrangements to be filed.

(6) The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

25 Stat. L., 855.
Commission may prescribe forms of schedules.

(7) No carrier, unless otherwise provided by this Act, shall engage or participate in the transportation of passengers or property, as defined in this Act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this Act; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares and charges so specified, nor extend to any shipper or person any

Carrier not to engage in transportation unless schedules filed and published.

24 Stat. L., 379.

Published rates to be strictly observed.

34 Stat. L., 584.

Preference and expedition of military traffic during war.

34 Stat. L., 584.

39 Stat. L., 604.
No embargo as to shipments for United States.

36 Stat. L., 539.
Rejection of defective schedules; use unlawful.

Penalty for failure to comply with regulations.

Carrier to furnish written statement of rate.

Penalty for refusal or misstatement of rate.

Name of carrier's agent to be posted.

Additional jurisdiction of Commission over rail and water traffic—

37 Stat. L., 568.

privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

(8) That in time of war or threatened war preference and precedence shall, upon the demand of the President of the United States, be given over all other traffic for the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic. And in time of peace shipments consigned to agents of the United States for its use shall be delivered by the carriers as promptly as possible and without regard to any embargo that may have been declared, and no such embargo shall apply to shipments so consigned.

(9) The Commission may reject and refuse to file any schedule that is tendered for filing which does not provide and give lawful notice of its effective date, and any schedule so rejected by the Commission shall be void and its use shall be unlawful.

(10) In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with the terms of any regulation adopted and promulgated or any order made by the Commission under the provisions of this section, such carrier, receiver, or trustee shall be liable to a penalty of five hundred dollars for each such offense, and twenty-five dollars for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(11) If any common carrier subject to the provisions of this Act, after written request made upon the agent of such carrier hereinafter in this section referred to, by any person or company for a written statement of the rate or charge applicable to a described shipment between stated places under the schedules or tariffs to which such carrier is a party, shall refuse or omit to give such written statement within a reasonable time, or shall misstate in writing the applicable rate, and if the person or company making such request suffers damage in consequence of such refusal or omission or in consequence of the misstatement of the rate, either through making the shipment over a line or route for which the proper rate is higher than the rate over another available line or route, or through entering into any sale or other contract whereunder such person or company obligates himself or itself to make such shipment of freight at his or its cost, then the said carrier shall be liable to a penalty of two hundred and fifty dollars, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(12) It shall be the duty of every carrier by railroad to keep at all times conspicuously posted in every station where freight is received for transportation the name of an agent resident in the city, village, or town where such station is located, to whom application may be made for the information by this section required to be furnished on written request; and in case any carrier shall fail at any time to have such name so posted in any station, it shall be sufficient to address such request in substantially the following form: "The Station Agent of the ———— Company at ———— Station," together with the name of the proper post office, inserting the name of the carrier company and of the station in the blanks, and to serve the same by depositing the request so addressed, with postage thereon prepaid, in any post office.

(13) When property may be or is transported from point to point in the United States by rail and water through the Panama Canal or otherwise, the transportation being by a common carrier or carriers, and not entirely within the limits of a single State, the Interstate Commerce Commission shall have jurisdiction of such transportation and of the carriers, both by rail and by water, which may or do engage in the same, in the following particulars, in addition to the jurisdiction given

by the Act to regulate commerce, as amended June eighteenth, nineteen hundred and ten:

(a) To establish physical connection between the lines of the rail carrier and the dock at which interchange of passengers or property is to be made by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of the railroad right of way, or by directing either or both the rail and water carrier, individually or in connection with one another, to construct and connect with the lines of the rail carrier a track or tracks to the dock. The Commission shall have full authority to determine and prescribe the terms and conditions upon which these connecting tracks shall be operated, and it may, either in the construction or the operation of such tracks, determine what sum shall be paid to or by either carrier: *Provided*, That construction required by the Commission under the provisions of this paragraph shall be subject to the same restrictions as to findings of public convenience and necessity and other matters as is construction required under section 1 of this Act.

—physical connection between rail lines and dock.

—Commission may determine terms of construction and operation.

—finding of convenience and necessity requisite.

(b) To establish through routes and maximum joint rates between and over such rail and water lines, and to determine all the terms and conditions under which such lines shall be operated in the handling of the traffic embraced.

—through routes and joint rates, rail and water carriers.

(c) To establish proportional rates, or maximum, or minimum, or maximum and minimum proportional rates, by rail to and from the ports to which the traffic is brought, or from which it is taken by the water carrier, and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water.

Additional jurisdiction over establishment of proportional rates to and from ports.

—proportional rates defined.

(d) If any rail carrier subject to the Act to regulate commerce enters into arrangements with any water carrier operating from a port in the United States to a foreign country, through the Panama Canal or otherwise, for the handling of through business between interior points of the United States and such foreign country, the Interstate Commerce Commission may require such railway to enter into similar arrangements with any or all other lines of steamships operating from said port to the same foreign country.

—through rail and water arrangements from United States to foreign country.

—similar arrangements required with other ocean lines.

SEC. 7. That it shall be unlawful for any common carrier subject to the provisions of this Act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this Act.

24 Stat. L., 379.

Freight carriage treated as continuous unless stoppage in good faith.

SEC. 8. That in case any common carrier subject to the provisions of this Act shall do, cause to be done, or permit to be done any act, matter, or thing in this Act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this Act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this Act, together with a reason-

24 Stat. L., 379.

Civil liability of common carriers for damages caused by violation of Act.

Attorney's fee.

able counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

Claimant may complain to Commission or sue in United States court.

24 Stat. L., 379.

Officers of defendant required to testify; immunity.

SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this Act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this Act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Penalties for violations of Act by carriers, corporate officers, agents, or employees.

24 Stat. L., 379.
41 Stat. L., 483.

SEC. 10. [*As amended March 2, 1889, June 18, 1910, and February 28, 1920.*] (1) That any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this Act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this Act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing so directed or required done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this Act for which no penalty is otherwise provided, or who shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: *Provided*, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges for the transportation of passengers or property or the transmission of intelligence, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

25 Stat. L., 855.

Penalties for false billing, etc., by carriers, officers or agents.

(2) Any common carrier subject to the provisions of this Act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any

Orders to be made only after hearing.
37 Stat. L., 568.

Enforcement of orders, penalties.

Note.—The second paragraph of sec. 11 (d) of the Panama Canal Act of August 24, 1912, reads as follows:

The orders of the Interstate Commerce Commission relating to this section shall only be made upon formal complaint or in proceedings instituted by the Commission of its own motion and after full hearing. The orders provided for in the two amendments to the Act to regulate commerce enacted in this section [the amendments are to section 5, (9), (10), and (11), and to section 6 (13) (a) (b) (c) and (d)] shall be served in the same manner and enforced by the same penalties and proceedings as are the orders of the Commission made under the provisions of section fifteen of the Act to regulate commerce, as amended June eighteenth, nineteen hundred and ten, and they may be conditioned for the payment of any sum or the giving of security for the payment of any sum or the discharge of any obligation which may be required by the terms of said order.

person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

(3) Any person, corporation, or company, or any agent or officer thereof, who shall deliver property for transportation to any common carrier subject to the provisions of this Act, or for whom, as consignor or consignee, any such carrier shall transport property, who shall knowingly and willfully, directly or indirectly, himself or by employee, agent, officer, or otherwise, by false billing, false classification, false weighing, false representation of the contents of the package or the substance of the property, false report of weight, false statement, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent, or officer, obtain or attempt to obtain transportation for such property at less than the regular rates then established and in force on the line of transportation; or who shall knowingly and willfully, directly or indirectly, himself or by employee, agent, officer, or otherwise, by false statement or representation as to cost, value, nature or extent of injury, or by the use of any false bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to be false, fictitious, or fraudulent, or to contain any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, refund, or payment for damage or otherwise in connection with or growing out of the transportation of or agreement to transport such property, whether with or without the consent or connivance of the carrier, whereby the compensation of such carrier for such transportation, either before or after payment, shall in fact be made less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was wholly or in part committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court: *Provided*, That the penalty of imprisonment shall not apply to artificial persons.

Penalties for false billing, etc., by shippers and others.

36 Stat. L., 539.

25 Stat. L., 855.

36 Stat. L., 539.

(4) If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce or attempt to induce any common carrier subject to the provisions of this Act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company, shall also, together with said common carrier, be liable, jointly or severally, in an action to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

Penalties for inducing common carriers to discriminate unjustly.

25 Stat. L., 855.

Joint and several liability for damages.

Interstate Commerce
Commissioners—meth-
od of appointment,
terms.

24 Stat. L., 379.

Removal.

Disqualification for
interest.

Vacancy not to im-
pair exercise of power.

41 Stat. L., 484.

Commission to keep
informed as to business
of carriers.

24 Stat. L., 379.

Commission to exe-
cute and enforce provi-
sions of Act.

25 Stat. L., 855.

District attorneys to
prosecute.

24 Stat. L., 379.

Commission may re-
quire testimony and
documentary evidence.

Courts to compel wit-
nesses to attend and
testify.

26 Stat. L., 743.

25 Stat. L., 855.

24 Stat. L., 379.

Claim as to self-crimi-
nation will not excuse
witness.

Privileged testimony.

SEC. 11. That a Commission is hereby created and established, to be known as the Interstate Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice, and consent of the Senate. The Commissioners first appointed under this Act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, Anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this Act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission. [See section 24, *enlarging Commission and increasing salaries.*]

SEC. 12. [As amended March 2, 1889, February 10, 1891, and February 28, 1920.]

(1) That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this Act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this Act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney General of the United States all necessary proceedings for the enforcement of the provisions of this Act and for the punishment of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this Act the Commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

(2) Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

(3) And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this Act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence

shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

(4) The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation pending before the Commission, by deposition, at any time after a cause or proceeding at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, not interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

(5) Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(6) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(7) Witnesses whose depositions are taken pursuant to this Act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

SEC. 13. [As amended June 18, 1910, and February 28, 1920.] (1) That any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act, in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Depositions.

26 Stat. L., 743.

Before whom taken.

Notice.

Witnesses compelled to appear and testify.

Oath or affirmation.

Subscription to deposition.

Witness in foreign country.

Depositions filed with Commission.

Fees, witnesses, and magistrates.

Complaints to Commission, how and by whom made.

24 Stat. L., 379.
36 Stat. L., 539.
41 Stat. L., 484.

Service.

Answer required.

Investigation when complaint not satisfied, or grounds appear.

Complaints by State
railroad commission.

Investigations on
Commission's own mo-
tion.

Procedure and order
as upon complaint.

Complainant's in-
terest immaterial.

24 Stat. L., 379.

Procedure when rates
of State, or initiated by
President, attacked.

Conference and co-
operation with State
authorities.

Preference or preju-
dice, or discrimination
against interstate or
foreign commerce.

Commission to pre-
scribe lawful rate, class-
ification, regulation or
practice.

41 Stat. L., 484.

Commission to make
report, with conclusions
and order.

Report in reparation
cases.

34 Stat. L., 584.

(2) Said Commission shall, in like manner and with the same authority and powers, investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory at the request of such commissioner or commission, and the Interstate Commerce Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made, to or before said Commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act, or relating to the enforcement of any of the provisions of this Act. And the said Commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this Act, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had excepting orders for the payment of money. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(3) Whenever in any investigation under the provisions of this Act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this Act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this Act.

(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

SEC. 14. [*Amended March 2, 1889, June 29, 1906, and February 28, 1920.*] (1) That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

(2) All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

24 Stat. L., 379.

Reports entered of record; service.

25 Stat. L., 855.

Reports and decisions competent as evidence.

Annual reports, printing.

(3) The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports.

34 Stat. L., 584.

36 Stat. L., 539.

41 Stat. L., 484.

Determination of rates, classifications, regulations or practices, by Commission.

Commission may fix maximum, minimum or precise rates.

Carriers to cease and desist from violations found.

Orders effective as prescribed, and to be obeyed.

Time when orders take effect.

Continuance in effect of order.

Establishment of through routes, joint classifications and rates, divisions, and operating conditions.

SEC. 15. [As amended June 29, 1906, June 18, 1910, and February 28, 1920.]
 (1) That whenever, after full hearing, upon a complaint made as provided in section 13 of this Act, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this Act for the transportation of persons or property or for the transmission of messages as defined in the first section of this Act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this Act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this Act, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulations or practice so prescribed.

(2) Except as otherwise provided in this Act, all orders of the Commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than thirty days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(3) The Commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares and charges applicable thereto), and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated; and this provision, except as herein otherwise provided, shall apply when one of the carriers is a water line.

Street electric passenger railways excepted.

Transportation wholly by water excepted.

Limitation on power to prescribe through routes.

Establishment of temporary through routes in emergency.

Unloading and reloading ordinary livestock at public stock yards.

When extra charge may be made.

Commission to prescribe or approve rules.

Commission may prescribe divisions of joint rates.

Divisions made retroactive.

Considerations in determining divisions.

The Commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the Commission have the right to establish any route, classification, or practice, or any rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this Act shall be subject to the laws and regulations applicable to transportation by water.

(4) In establishing any such through route the Commission shall not (except as provided in section 3, and except where one of the carriers is a water line) require any carrier by railroad, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established: *Provided*, That in time of shortage of equipment, congestion of traffic, or other emergency declared by the Commission it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest.

(5) Transportation wholly by railroad of ordinary livestock in carload lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge therefor to the shipper, consignee or owner, except in cases where the unloading or reloading en route is at the request of the shipper, consignee or owner, or to try an intermediate market, or to comply with quarantine regulations. The Commission may prescribe or approve just and reasonable rules governing each of such excepted services. Nothing in this paragraph shall be construed to affect the duties and liabilities of the carriers now existing by virtue of law respecting the transportation of other than ordinary livestock, or the duty of performing service as to shipments other than those to or from public stockyards.

(6) Whenever, after full hearing upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares and charges, the Commission shall give due consideration, among other things, to the efficiency

with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers, and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare or charge.

(7) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice, and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than one hundred and twenty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearings can not be concluded within the period of suspension, as above stated, the Commission may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period, but, in case of a proposed increased rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this Act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the carrier, and the Commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

(8) In all cases where at the time of delivery of property to any railroad corporation being a common carrier, for transportation subject to the provisions of this Act to any point of destination, between which and the point of such delivery for shipment two or more through routes and through rates shall have been established as in this Act provided to which through rates and through routes such carrier is a party, the person, firm, or corporation making such shipment, subject to such reasonable exceptions and regulations as the Interstate Commerce Commission shall from time to time prescribe, shall have the right to designate in writing

Investigation of new rate, classification, regulation or practice.

Suspension pending investigation, not longer than 120 days.

Order as to such rates.

Further suspension permitted, not exceeding 30 days.

Accounting required for increased amounts received.

Burden of proof as to reasonableness of increased rates.

Preference given suspension cases.

36 Stat. L., 539.

41 Stat. L., 487.

Shippers may designate routing.

by which of such through routes such property shall be transported to destination, and it shall thereupon be the duty of the initial carrier to route said property and issue a through bill of lading therefor as so directed, and to transport said property over its own line or lines and deliver the same to a connecting line or lines according to such through route, and it shall be the duty of each of said connecting carriers to receive said property and transport it over the said line or lines and deliver the same to the next succeeding carrier or consignee according to the routing instructions in said bill of lading: *Provided, however,* That the shipper shall in all instances have the right to determine, where competing lines of railroad constitute portions of a through line or route, over which of said competing lines so constituting a portion of said through line or route his freight shall be transported.

(9) Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the Commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property, for the total amount of the rate or charge it would have received had it participated in the haul of the property. The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before carrying the property it had no notice, by bill of lading, waybill or otherwise, of the routing instructions. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee to be taxed in the case.

(10) With respect to traffic not routed by the shipper, the Commission may, whenever the public interest and a fair distribution of the traffic require, direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier.

(11) It shall be unlawful for any common carrier subject to the provisions of this Act, or any officer, agent, or employee of such common carrier, or for any other person or corporation lawfully authorized by such common carrier to receive information therefrom, knowingly to disclose to or permit to be acquired by any person or corporation other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier for interstate transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person or corporation to solicit or knowingly receive any such information which may be so used: *Provided,* That nothing in this Act shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any state or federal court, or to any officer or agent of the Government of the United States, or of any State or Territory, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime; or information given by a common carrier to another carrier or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

(12) Any person, corporation or association violating any of the provisions of the next preceding paragraph of this section shall be deemed guilty of a misdemeanor, and for each offense, on conviction, shall pay to the United States a penalty of not more than one thousand dollars.

41 Stat. L., 487.

Accounting, as between carriers, for proceeds of diverted transportation.

Commission may direct routing when shipper does not.

36 Stat. L., 539.

41 Stat. L., 488.

Unauthorized disclosure of information as to shipments unlawful.

Exceptions.

Penalty.

(13) If the owner of property transported under this Act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable and the Commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for under this section.

Allowance to owner of property for service or instrumentality.

34 Stat. L., 584.

41 Stat. L., 488.

Commission may fix reasonable maximum allowance.

Enumeration of powers not exclusive.

(14) The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this Act.

SEC. 15a. [Added February 28, 1920.] (1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices, relating thereto; the term "carrier" means a carrier by railroad or partly by railroad and partly by water, within the continental United States, subject to this Act, excluding (a) sleeping-car companies and express companies, (b) street or suburban electric railways unless operated as a part of a general steam railroad system of transportation, (c) interurban electric railways unless operated as a part of a general steam railroad system of transportation or engaged in the general transportation of freight, and (d) any belt-line railroad, terminal switching railroad, or other terminal facility, owned exclusively and maintained, operated, and controlled by any State or political subdivision thereof; and the term "net railway operating income" means railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.

41 Stat. L., 488.

Rule of rate-making.

"Rates," and "carrier" defined.

Carriers excepted.

Net railway operating income defined.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: *Provided*, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

Aggregate rates to yield fair return on value.

Latitude as to particular rates, or sections of country.

(3) The Commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the Commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: *Provided*, That during the two years beginning March 1, 1920, the Commission shall take as such fair return a sum equal to 5½ per centum of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of one per centum of such aggregate value to make provision in whole or in part for improvements, betterments or equipment, which, according to the accounting system prescribed by the Commission, are chargeable to capital account.

Determination and publication of fair return percentage.

Considerations in determining fair return.

Percentage for two years, beginning March 1, 1920.

Determination of aggregate value of property.

(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the Commission from time to time and as often as may be necessary. The Commission may utilize the results of its investigation under section 19a of this Act, in so far as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consideration which under such law it is entitled to in establishing values for rate-making purposes. Whenever pursuant to section 19a of this Act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the Commission to be the value thereof for the purpose of determining such aggregate value.

Income in excess of fair return, held as trustee for United States.

(5) Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their property railway held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return, shall hold such parts of the excess, as hereinafter prescribed, as trustee, for, and shall pay it to, the United States.

Disposition of net railway operating income exceeding 6 per cent. of value.

One-half into reserve fund of carrier.

Remainder into general railroad contingent fund.

Commonly controlled properties treated as a system.

Provisions inapplicable to carrier under guaranty.

(6) If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the Commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the Commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. In the case of any carrier which has accepted the provisions of section 209 of this amendatory Act the provisions of this paragraph shall not be applicable to the income for any period prior to September 1, 1920. The value of such railway property shall be determined by the Commission in the manner provided in paragraph (4).

How value determined.

Reserve fund, for what purposes used.

(7) For the purpose of paying dividends or interest on its stocks, bonds or other securities, or rent for leased roads, a carrier may draw from the reserve fund established and maintained by it under the provisions of this section to the extent that its net railway operating income for any year is less than a sum equal to 6 per centum of the value of the railway property held for and used by it in the service of transportation, determined as provided in paragraph (6); but such fund shall not be drawn upon for any other purpose.

Maximum of required reserve fund; disposition of excess income.

(8) Such reserve fund need not be accumulated and maintained by any carrier beyond a sum equal to 5 per centum of the value of its railway property determined as herein provided, and when such fund is so accumulated and maintained the portion of its excess income which the carrier is permitted to retain under paragraph (6) may be used by it for any lawful purpose.

(9) The Commission shall prescribe rules and regulations for the determination and recovery of the excess income payable to it under this section, and may require such security and prescribe such reasonable terms and conditions in connection therewith as it may find necessary. The Commission shall make proper adjustments to provide for the computation of excess income for a portion of a year, and for a year in which a change in the percentage constituting a fair return or in the value of a carrier's railway property becomes effective.

Determination and recovery of excess income.

Adjustments in computation.

(10) The general railroad contingent fund so to be recoverable by and paid to the Commission and all accretions thereof shall be a revolving fund and shall be administered by the Commission. It shall be used by the Commission in furtherance of the public interest in railway transportation either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account, or by purchasing transportation equipment and facilities and leasing the same to carriers, as hereinafter provided. Any moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositories of the United States subject to the rules promulgated from time to time by the Secretary of the Treasury relating to Government deposits.

Administration of general railroad contingent fund.

Purposes for which used.

Investment or deposit of unemployed moneys in fund.

(11) A carrier may at any time make application to the Commission for a loan from the general railroad contingent fund, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operations, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the Commission may deem pertinent to the inquiry.

Loans to carrier from general railroad contingent fund.

Application for loan.

(12) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan from the general railroad contingent fund is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the Commission may make a loan to the applicant from such railroad contingent fund, in such amount, for such length of time, and under such terms and conditions as it may deem proper. The Commission shall also prescribe the security to be furnished, which shall be adequate to secure the loan. All such loans shall bear interest at the rate of 6 per centum per annum, payable semiannually to the Commission. Such loans when repaid, and all interest paid thereon, shall be placed in the general railroad contingent fund.

Commission may make loan from general railroad contingent fund.

Terms and conditions; security; interest.

Principal and interest pass into fund.

(13) A carrier may at any time make application to the Commission for the lease to it of transportation equipment or facilities, purchased from the general railroad contingent fund, setting forth the kind and amount of such equipment or facilities and the term for which it is desired to be leased, the uses to which it is proposed to put such equipment or facilities, the present and prospective ability of the applicant to pay the rental charges thereon and to meet the requirements of its obligations under the lease, and the extent to which the public convenience and

Leasing of equipment or facilities purchased from contingent fund.

- Application for lease. necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of leasing such equipment or facilities to the applicant as the Commission may deem pertinent to the inquiry.
- Authority of Commission to make lease. (14) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the leasing to the applicant of such equipment or facilities, in whole or in part, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant is such as to furnish reasonable assurance of the applicant's ability to pay promptly the rental charges and meet its other obligations under such lease, the Commission may lease such equipment or facilities purchased by it from the general railroad contingent fund, to the applicant for such length of time, and under such terms and conditions as it may deem proper. The rental charges provided in every such lease shall be at least sufficient to pay a return of 6 per centum per annum, plus allowance for depreciation determined as provided in paragraph (5) of section 20 of this Act, upon the value of the equipment or facilities leased thereunder. All rental charges and other payments received by the Commission in connection with such equipment and facilities, including amounts received under any sale thereof, shall be placed in the general railroad contingent fund.
- Rental required.
- Rental and payments placed in contingent fund.
- Commission may acquire, maintain, and dispose of equipment and facilities on account of fund.
- (15) The Commission may from time to time purchase, contract for the construction, repair and replacement of, and sell, equipment and facilities, and enter into and carry out contracts and other obligations in connection therewith, to the extent that moneys included in the general railroad contingent fund are available therefor, and in so far as necessary to enable it to secure and supply equipment and facilities to carriers whose applications therefor are approved under the provisions of this section, and to maintain and dispose of such equipment and facilities.
- Rules as to loans and leases.
- (16) The Commission may from time to time prescribe such rules and regulations as it deems necessary to carry out the provisions of this section respecting the making of loans and the lease of equipment and facilities.
- Right of shippers to reparation unaffected.
- (17) The provisions of this section shall not be construed as depriving shippers of their right to reparation in case of overcharges, unlawfully excessive or discriminatory rates, or rates excessive in their relation to other rates, but no shipper shall be entitled to recover upon the sole ground that any particular rate may reflect a proportion of excess income to be paid by the carrier to the Commission in the public interest under the provisions of this section.
- Proportionately excessive earnings not ground for reparation.
- (18) Any carrier, or any corporation organized to construct and operate a railroad, proposing to undertake the construction and operation of a new line of railroad may apply to the Commission for permission to retain for a period not to exceed ten years all or any part of its earnings derived from such new construction in excess of the amount heretofore in this section provided, for such disposition as it may lawfully make of the same, and the Commission may, in its discretion, grant such permission, conditioned, however, upon the completion of the work of construction within a period to be designated by the Commission in its order granting such permission.
- Retention of excess earnings on new line.
- Award of damages by Commission.
- 41 Stat. L., 491.
34 Stat. L., 584.
- SEC. 16. [*Amended March 2, 1889, June 29, 1906, June 18, 1910, and February 28, 1920.*] (1) That if, after hearing on a complaint made as provided in section thirteen of this Act, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this Act for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

(2) If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, or in any state court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit in the circuit court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit.

(3) All actions at law by carriers subject to this Act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such two years or within ninety days before such expiration begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to and including ninety days from the time such action by the carrier is begun. In either case the cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after. A petition for the enforcement of an order for the payment of money shall be filed in the district court or State court within one year from the date of the order, and not after.

(4) In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

(5) Every order of the Commission shall be forthwith served upon the designated agent of the carrier in the city of Washington or in such other manner as may be provided by law.

(6) The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper.

(7) It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

(8) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this Act shall forfeit to the United States the sum of \$5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

41 Stat. L., 491.

Enforcement of order by courts.

36 Stat. L., 539.

34 Stat. L., 584.

Findings of fact of Commission prima facie evidence.

Costs; attorney's fees.

Limitation for beginning actions at law.

41 Stat. L., 492.

Limitation for filing complaint for damages with Commission.

Accrual of cause of action upon delivery or tender thereof.

Limitation of action to enforce order for money payment.

41 Stat. L., 492.

34 Stat. L., 584.

Joint plaintiffs may sue joint defendants on awards of damages.

Service of process, where made.

Judgments as to single party, in joint suit.

36 Stat. L., 539.

Service of orders.

Commission may suspend or modify order.

34 Stat. L., 534.

Compliance required.

Penalty for refusal to obey order made under sections 3, 13, or 15.

Recovery of forfeiture.

41 Stat. L., 492.
24 Stat. L., 379.
District attorney to prosecute; costs and expenses.

Commission may employ attorneys.

41 Stat. L., 492.
36 Stat. L., 539.
Enforcement of orders other than for payment of money.

41 Stat. L., 492.
34 Stat. L., 584.

Writ of injunction to compel obedience.

Schedules, contracts, and annual reports filed, public records.

Receivable as prima facie evidence.

Certified copies or extracts prima facie evidence.

Application for rehearing.

34 Stat. L., 584.
Application not to operate as stay unless ordered.

Commission may grant rehearings.

(9) The forfeiture provided for in this Act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

(10) It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

(11) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission.

(12) If any carrier fails or neglects to obey any order of the Commission other than for the payment of money, while the same is in effect, the Interstate Commerce Commission or any party injured thereby, or the United States, by its Attorney General, may apply to the Commerce Court for the enforcement of such order. If, after hearing, that Court determine that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the Court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it or them obedience to the same.

(13) The copies of schedules and classifications and tariffs of rates, fares and charges, and of all contracts, agreements, and arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers made to the Commission as required under the provisions of this Act shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the secretary, under the Commission's seal, shall be received in evidence with like effect as the originals.

SEC. 16a. [Added June 29, 1906.] That after a decision, order, or requirement has been made by the Commission in any proceeding any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such general rules as the Commission may establish. No such application shall excuse any carrier from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. In case a rehearing is granted the proceedings thereupon shall conform as nearly as may be to the proceedings in an original hearing, except as the Commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts, including those arising since the former hearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same

accordingly. Any decision, order, or requirement made after such rehearing, reversing, changing, or modifying the original determination shall be subject to the same provisions as an original order.

Procedure upon rehearing.
Order may be reversed, changed, or modified.

SEC. 17. [*As amended March 2, 1889, August 9, 1917, and February 28, 1920.*]

(1) That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. The Commission shall have an official seal, which shall be judicially noticed. Any member of the Commission may administer oaths and affirmations and sign subpoenas. A majority of the Commission shall constitute a quorum for the transaction of business, except as may be otherwise herein provided, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. The Commission may, from time to time, make or amend such general rules or orders as may be requisite, for the order and regulations of proceedings before it, or before any division of the Commission, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before the Commission or any division thereof and be heard in person or by attorney. Every vote and official act of the Commission, or of any division thereof, shall be entered of record, and its proceedings shall be public upon the request of any party interested.

Commission may determine its procedure.
Official seal.
Oaths; subpoenas.
24 Stat. L., 379.
25 Stat. L., 855.
40 Stat. L., 270.
41 Stat. L., 492.
Quorum.

General rules.

Forms of notices; service.

Appearances.

Record, proceedings, public.

(2) The Commission is hereby authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division one, division two, and so forth. Any Commissioner may be assigned to and may serve upon such division or divisions as the Commission may direct, and the senior in service of the Commissioners constituting any of said divisions shall act as chairman thereof. In case of vacancy in any division, or of absence or inability to serve thereon of any Commissioner thereto assigned, the Chairman of the Commission or any Commissioner designated by him for that purpose, may temporarily serve on said division until the Commission shall otherwise order.

Divisions of the Commission.

40 Stat. L., 270.

41 Stat. L., 492.

Vacancy in division.

(3) The Commission may by order direct that any of its work, business, or functions arising under this Act, or under any Act amendatory thereof, or supplemental thereto, or under any amendment which may be made to any of said Acts, or under any other Act or joint resolution which has been or may hereafter be approved, or in respect of any matter which has been or may be referred to the Commission by Congress or by either branch thereof, be assigned or referred to any of said divisions for action thereon, and may by order at any time amend, modify, supplement, or rescind any such direction. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the Commission.

Work on function assigned to divisions.

(4) In conformity with and subject to the order or orders of the Commission in the premises, each division so constituted shall have power and authority by a majority thereof to hear and determine, order, certify, report, or otherwise act as to any of said work, business, or functions so assigned or referred to it for action by the Commission, and in respect thereof the division shall have all the jurisdiction and powers now or then conferred by law upon the Commission, and be subject to the same duties and obligations. Any order, decision, or report made or other action taken by any of said divisions in respect of any matters so assigned or referred to it shall have the same force and effect, and may be made, evidenced, and enforced in the same manner as if made or taken by the Commission, subject to rehearing by the Commission, as provided in section 16a hereof for rehearing cases decided

Authority of divisions.

Determinations by divisions effective as if made by Commission.

Rehearing of division's determination.

by the Commission. The secretary and seal of the Commission shall be the secretary and seal of each division thereof.

(5) Nothing in this section contained, or done pursuant thereto, shall be deemed to divest the Commission of any of its powers.

SEC. 18. [*As amended March 2, 1889, and February 28, 1920.*] [*See section 24, increasing number and salaries of Commissioners.*] (1) That each Commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigations, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission.

SEC. 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted, or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this Act.

SEC. 19a. [*As amended February 28, 1920.*] (a) That the Commission shall, as hereinafter provided, investigate, ascertain, and report the value of all the property owned or used by every common carrier subject to the provisions of this Act. To enable the Commission to make such investigation and report, it is authorized to employ such experts and other assistants as may be necessary. The Commission may appoint examiners who shall have power to administer oaths, examine witnesses, and take testimony. The Commission shall make an inventory which shall list the property of every common carrier subject to the provisions of this Act in detail, and show the value thereof, as hereinafter provided, and shall classify the physical property, as nearly as practicable, in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

(b) First. In such investigation said Commission shall ascertain and report in detail as to each piece of property owned or used by said common carrier for its purposes as a common carrier, the original cost to date, the cost of reproduction new, the cost of reproduction less depreciation, and an analysis of the methods by which these several costs are obtained, and the reason for their differences, if any. The Commission shall in like manner ascertain and report separately other values, and elements of value, if any, of the property of such common carrier, and an analysis of the methods of valuation employed, and of the reasons for any differences between any such value, and each of the foregoing cost values.

Second. Such investigation and report shall state in detail and separately from improvements the original cost of all lands, rights of way, and terminals owned or

Present powers of Commission retained.
24 Stat. L., 379.
41 Stat. L., 493.

Salary of Commissioners.

Secretary; salary.

25 Stat. L., 855.

Employees; compensation.

Offices.

Witnesses' fees.

Expenses of Commission, auditing and payment.

24 Stat. L., 379.

Principal office, Washington.

24 Stat. L., 397.

Special sessions.

Prosecution of inquiries anywhere in the United States.

Valuation of common carrier property.

37 Stat. L., 701.

41 Stat. L., 493.

Investigation by Commission.

Employment of experts.

Inventory of property.

Classification of property.

Costs of common-carrier property to be reported.

Analysis of methods.

Other values and elements of value.

Original cost and present value of real property.

used for the purposes of a common carrier, and ascertained as of the time of dedication to public use, and the present value of the same, and separately the original and present cost of condemnation and damages or of purchase in excess of such original cost or present value.

Third. Such investigation and report shall show separately the property held for purposes other than those of a common carrier, and the original cost and present value of the same, together with an analysis of the methods of valuation employed.

Fourth. In ascertaining the original cost to date of the property of such common carrier the Commission, in addition to such other elements as it may deem necessary, shall investigate and report upon the history and organization of the present and of any previous corporation operating such property; upon any increases or decreases of stocks, bonds, or other securities, in any reorganization; upon moneys received by any such corporation by reason of any issues of stocks, bonds, or other securities; upon the syndicating, banking, and other financial arrangements under which such issues were made and the expense thereof; and upon the net and gross earnings of such corporations; and shall also ascertain and report in such detail as may be determined by the Commission upon the expenditure of all moneys and the purposes for which the same were expended.

Fifth. The Commission shall ascertain and report the amount and value of any aid, gift, grant of right of way, or donation, made to any such common carrier, or to any previous corporation operating such property, by the Government of the United States or by any State, county or municipal government, or by individuals, associations, or corporations; and it shall also ascertain and report the grants of land to any such common carrier, or any previous corporation operating such property, by the Government of the United States, or by any State, county, or municipal government, and the amount of money derived from the sale of any portion of such grants and the value of the unsold portion thereof at the time acquired and at the present time, also the amount and value of any concession and allowance made by such common carrier to the Government of the United States, or to any State, county, or municipal government in consideration of such aid, gift, grant, or donation.

(c) Except as herein otherwise provided, the Commission shall have power to prescribe the method of procedure to be followed in the conduct of the investigation, the form in which the results of the valuation shall be submitted, and the classification of the elements that constitute the ascertained value, and such investigation shall show the value of the property of every common carrier as a whole and separately the value of its property in each of the several States and Territories and the District of Columbia, classified and in detail as herein required.

(d) Such investigation shall be commenced within sixty days after approval of this Act and shall be prosecuted with diligence and thoroughness, and the result thereof reported to Congress at the beginning of each regular session thereafter until completed.

(e) Every common carrier subject to the provisions of this Act shall furnish to the Commission or its agents from time to time and as the Commission may require maps, profiles, contracts, reports of engineers, and any other documents, records and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property of said common carrier, and shall grant to all agents of the Commission free access to its right of way, its property, and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent, and every common carrier is hereby directed and required to cooperate with and aid the Commission in the work of the valuation of its property in such further particulars and to such extent as the Commission may

Cost of condemnation and damages or of purchase.

Property not held for carrier purposes.

Corporate history and organization.

Stocks and bonds; financing.

Earnings and expenditures.

Aids, gifts, grants and donations.

Proceeds of land grants, and value of unsold portion.

Concessions made by carrier.

Commission may prescribe procedure, form of results and classification.

Value stated separately by States.

Prosecution and report of investigation.

Carriers to furnish documents.

Access to property and records.

Carriers to co-operate with Commission.

Regulations have effect of law.

Public inspection of records.

Valuations to be kept up.

Revision and correction.

Reports to Congress.

Information required for changes and corrections.

Notice of tentative valuation.

Finality if no protest filed.

Hearings of protests.

Changes in tentative valuations.

Order making tentative valuation final.

Final valuations and classifications prima facie evidence.

Transmission of new evidence to Commission.

Action of Commission thereon.

Modification of order.

require and direct, and all rules and regulations made by the Commission for the purpose of administering the provisions of this section and section twenty of this Act shall have the full force and effect of law. Unless otherwise ordered by the Commission, with the reasons therefor, the records and data of the Commission shall be open to the inspection and examination of the public.

(f) Upon the completion of the valuation herein provided for, the Commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition and value of the property of all common carriers, and shall ascertain the value thereof, and shall from time to time, revise and correct its valuations, showing such revision and correction classified and as a whole and separately in each of the several States and Territories and the District of Columbia, which valuation, both original and corrected, shall be tentative valuations and shall be reported to Congress at the beginning of each regular session.

(g) To enable the Commission to make such changes and corrections in its valuation of each class of property, every common carrier subject to the provisions of this Act shall make such reports and furnish such information as the Commission may require.

(h) Whenever the Commission shall have completed the tentative valuation of the property of any common carrier, as herein directed, and before such valuation shall become final, the Commission shall give notice by registered letter to the said carrier, the Attorney General of the United States, the governor of any State in which the property so valued is located, and to such additional parties as the Commission may prescribe, stating the valuation placed upon the several classes of property of said carrier, and shall allow thirty days in which to file a protest of the same with the Commission. If no protest is filed within thirty days, said valuation shall become final as of the date thereof.

(i) If notice of protest is filed the Commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented in support of any such protest so filed as aforesaid. If after hearing any protest of such tentative valuation under the provisions of this Act the Commission shall be of the opinion that its valuation should not become final, it shall make such changes as may be necessary, and shall issue an order making such corrected tentative valuation final as of the date thereof. All final valuations by the Commission and the classification thereof shall be published and shall be prima facie evidence of the value of the property in all proceedings under the Act to regulate commerce as of the date of the fixing thereof, and in all judicial proceedings for the enforcement of the Act approved February fourth, eighteen hundred and eighty-seven, commonly known as "the Act to regulate commerce," and the various Acts amendatory thereof, and in all judicial proceedings brought to enjoin, set aside, annul, or suspend, in whole or in part, any order of the Interstate Commerce Commission.

(j) If upon the trial of any action involving a final value fixed by the Commission, evidence shall be introduced regarding such value which is found by the court to be different from that offered upon the hearing before the Commission, or additional thereto and substantially affecting said value, the court, before proceeding to render judgment shall transmit a copy of such evidence to the Commission, and shall stay further proceedings in said action for such time as the court shall determine from the date of such transmission. Upon the receipt of such evidence the Commission shall consider the same and may fix a final value different from the one fixed in the first instance, and may alter, modify, amend or rescind any order which it has made involving said final value, and shall report its action thereon to said court within the time fixed by the court. If the Commission shall alter, modify,

or amend its order, such altered, modified, or amended order shall take the place of the original order complained of and judgment shall be rendered thereon as though made by the Commission in the first instance. If the original order shall not be rescinded or changed by the Commission, judgment shall be rendered upon such original order.

Judgment on original order.

(k) The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this section and in the manner prescribed by the Commission such carrier, receiver, or trustee shall forfeit to the United States the sum of five hundred dollars for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in section sixteen of the Act to regulate commerce.

Applicable to receivers.

Penalty.

(l) That the district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of this section by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this section.

Jurisdiction of district courts to compel compliance.

SEC. 20. [*As amended June 29, 1906, February 25, 1909, June 18, 1910, March 4, 1915, August 9, 1916, and February 28, 1920.*] (1) That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this Act, and from the owners of all railroads engaged in interstate commerce as defined in this Act, to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this Act, prescribe a period of time within which all common carriers subject to the provisions of this Act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

Commission may require annual reports and prescribe manner of making same.

24 Stat. L., 379.

34 Stat. L., 584.

41 Stat. L., 493.

What reports of carriers shall contain.

Commission may prescribe uniform system of accounts.

(2) Said detailed reports shall contain all the required statistics for the period of twelve months ending on the thirtieth day of June in each year, or on the thirty-first day of December in each year if the Commission by order substitute that period for the year ending June thirtieth, and shall be made out under oath and filed with the Commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the Commission; and if any carrier, person, or corporation subject to the provisions of this Act shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission, for making and filing the same, or shall fail to make specific answer to any question authorized by

Fiscal year covered by annual reports.

34 Stat. L., 584.

36 Stat. L., 519.

41 Stat. L., 493.

When to be filed with Commission.

Penalty.	the provisions of this section within thirty days from the time it is lawfully required so to do, such party shall forfeit to the United States the sum of one hundred dollars for each and every day it shall continue to be in default with respect thereto. The Commission shall also have authority by general or special orders to require said carriers, or any of them, to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matters about which the Commission is authorized or required by this or any other law to inquire or to keep itself informed or which it is required to enforce; and such periodical or special reports shall be under oath whenever the Commission so requires; and if any such carrier shall fail to make and file any such periodical or special report within the time fixed by the Commission, it shall be subject to the forfeitures last above provided.
Commission may require monthly or periodical reports.	
Penalty.	(3) Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this Act.
Recovery of forfeitures.	(4) The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.
Oath to reports.	(5) The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this Act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The Commission shall, as soon as practicable, prescribe, for carriers subject to this Act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this Act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. The Commission shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by carriers subject to this Act, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. The provisions of this section shall also apply to all accounts, records and memoranda, including all documents, papers, and correspondence now or hereafter existing, kept during the period of Federal control, and placed by the President in the custody of carriers subject to this Act.
Commission may prescribe forms of accounts, records, and memoranda.	
Depreciation charges to be prescribed by Commission.	
Modification.	
Depreciation other than prescribed not to be charged.	
Access to accounts, records, and memoranda.	
Unauthorized accounts, records, etc., may not be kept.	
Special agents or examiners may inspect accounts, etc.	
Papers kept during Federal control.	
Penalty for failure to keep prescribed accounts, etc., or to allow inspection.	(6) In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United

States the sum of five hundred dollars for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this Act.

(7) Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, or documents of carriers which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

Penalty for false entry, mutilation of accounts or records, or keeping unauthorized accounts.

Commission may permit destruction of specified records.
35 Stat. L., 648.

(8) Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the Commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than five thousand dollars or imprisonment for a term not exceeding two years, or both.

Special examiner not to divulge information; penalty.

34 Stat. L., 584.

(9) That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said Act to regulate commerce or of any Act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provision of said Acts, or any of them.

United States courts may issue mandamus to compel compliance with act.

(10) And to carry out and give effect to the provisions of said Acts, or any of them, the Commission is hereby authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence.

Commission may employ examiners to receive evidence.

(11) That any common carrier, railroad, or transportation company subject to the provisions of this Act receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or from any point in the United States to a point in an adjacent foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or from any point in the United States to a point in an adjacent foreign country, or for transportation wholly within a Territory

38 Stat. L., 1197.
Cummins amendment, as amended.

41 Stat. L., 494.

Receiving carrier to issue bill of lading.

Liability for loss.

34 Stat. L., 584.

Not exempted from liability by contract or other limitation.

38 Stat. L., 1197.

Liability for full actual loss.

Limitations of liability or of amount of recovery, void.

Liability for loss while property in custody of water carrier.

39 Stat. L., 441.

Inapplicable to baggage.

When inapplicable to property other than ordinary live stock.

Rates dependent upon declared value, authorized or required.

Effect of declaration or agreement as to value.

Schedules to refer to order.

Ordinary live stock defined.

34 Stat. L., 584.

Rights under existing law preserved.

Time for filing claims and instituting suits.

When notice or filing of claim not to be required.

Recourse of initial carrier upon other carriers.

34 Stat. L., 584.

shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass within the United States or within an adjacent foreign country when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided*, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by and under the laws and regulations applicable to transportation by water, and the liability of the initial carrier shall be the same as that of such carrier by water: *Provided, however*, That the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply, first to baggage carried on passenger trains or boats, or trains or boats carrying passengers; second, to property, except ordinary live stock, received for transportation concerning which the carrier shall have been or shall hereafter be expressly authorized or required by order of the Interstate Commerce Commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and shall not, so far as relates to values, be held to be a violation of section ten of this Act to regulate commerce, as amended; and any tariff schedule which may be filed with the Commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared or agreed upon; and the Commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. The term "ordinary live stock" shall include all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: *Provided further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further*, That it shall be unlawful for any such common carrier to provide by rules, contract, regulation, or otherwise a shorter period for giving notice of claims than ninety days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: *Provided, however*, That if the loss, damage, or injury complained of was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery.

(12) That the common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required

to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof.

SEC. 20A. [*Added February 28, 1920.*] (1) That as used in this section the term "carrier" means a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to this Act, or any corporation organized for the purpose of engaging in transportation by railroad subject to this Act.

(2) From and after one hundred and twenty days after this section takes effect it shall be unlawful for any carrier to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed "securities") or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the Commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability in respect of the securities of any other person, natural or artificial, the Commission by order authorizes such issue or assumption. The Commission shall make such order only if it finds that such issue or assumption: (a) is for some lawful object within its corporate purposes, and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

(3) The Commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as the Commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the foregoing paragraph (2).

(4) Every application for authority shall be made in such form and contain such matters as the Commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

(5) Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within ten days after such sale, pledge, repledge, or other disposition, file with the Commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the Commission.

(6) Upon receipt of any such application for authority the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which the applicant carrier operates. The railroad commissions, public service or utilities commissions, or other appropriate State authorities of the State shall

41 Stat. L., 494.
Regulation of security issues by railroads.

Carriers subject to section.

Issuance of unauthorized securities prohibited.

"Securities" defined.

Unauthorized assumption of liability prohibited.

Findings prerequisite to authorization.

Lawfulness and compatibility.

Reasonable necessity and appropriateness.

Application granted in whole or part, or on terms.

Supplemental orders.

Form and contents of application; verification.

Notification as to disposition of securities pledged or held in treasury.

Notice of application for authority.

State authorities to be heard.

have the right to make before the Commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceeding. The Commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

Hearings upon application.

Commission's jurisdiction plenary.

(7) The jurisdiction conferred upon the Commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specified herein.

No governmental guaranty or obligation implied.

(8) Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

Short term notes; authorization unnecessary for limited issues.

(9) The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date hereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 5 per centum of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value as of the date of issue. Within ten days after the making of such notes the carrier issuing the same shall file with the Commission a certificate of notification, in such form as may from time to time be determined and prescribed by the Commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities: *Provided*, That in any subsequent funding of such notes the provisions of this section respecting other securities shall apply.

Notification as to issuance of short-term notes.

Section applies in case of funding.

Reports as to disposition of securities and application of proceeds.

(10) The Commission shall require periodical or special reports from each carrier hereafter issuing any securities, including such notes, which shall show, in such detail as the Commission may require, the disposition made of such securities and the application of the proceeds thereof.

Security obligation, or liability, void, if unauthorized—

—or if contrary to order of authorization.

—not void for procedural omission preceding authorization.

(11) Any security issued or any obligation of liability assumed by a carrier, for which under the provisions of this section the authorization of the Commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained, or if issued or assumed contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption; but no security issued or obligation or liability assumed in accordance with all the terms and conditions of such an order of authorization therefor as modified by any order supplemental thereto entered prior to such issuance or assumption, shall be rendered void because of failure to comply with any provision of this section relating to procedure and other matters preceding the entry of such order of authorization. If any security so made void or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void, or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or liability so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney or agent of the carrier who knowingly assents to or concurs in any issue of securities or assumptions of obligation or liability forbidden by this section, or any sale or

Joint and several liability to innocent holder of void security.

Rescission by holder of void security.

other disposition of securities contrary to the provisions of the Commission's order or orders in the premises, or any application not authorized by the Commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

Penalty.

(12) After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the Commission, upon due showing, in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. After this section takes effect it shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds, properly included in capital account. Any violation of these provisions shall be a misdemeanor and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

Holding position as officer or director in more than one carrier prohibited, except on Commission's authorization.

Personal benefit to officer or director prohibited in disposition of securities.

Payment of dividends from capital account prohibited.

Penalty.

SEC. 21. [As amended March 2, 1889.] That the Commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to Congress, and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission.

Annual reports of Commission to Congress.

24 Stat. L., 379.

25 Stat. L., 855.

SEC. 22. [As amended March 2, 1889, and February 8, 1895.] [See section 1, par. 7, page 189.] That nothing in this Act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this Act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this Act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this Act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this Act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this Act: *Provided further*, That nothing in this Act shall prevent

Transportation free or at reduced rates.
24 Stat. L., 379.
25 Stat. L., 855.
—for governmental or charitable purposes.

Mileage, excursion, or commutation passenger tickets.

24 Stat. L., 379.
25 Stat. L., 855.

Officers and employees of railroad companies.
24 Stat. L., 379.

Act cumulative to common law remedies.

Joint interchangeable
five-thousand mile tick-
ets. Free baggage.
28 Stat. L., 643.

Rates to be pub-
lished, filed, and ob-
served.

Penalties.

25 Stat. L., 855.

Mandamus to compel
movement of traffic or
the furnishing of trans-
portation facilities.

Writ may issue al-
though compensation
for service undeter-
mined.

Remedy by manda-
mus is cumulative.

40 Stat. L., 270.
34 Stat., 41 Stat., L.,
497 L., 584.
Commission en-
larged—
—members; terms;
—compensation.

—terms of present and
additional commis-
sioners.

the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier, subject to the provisions of this Act, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section six of this Act; and all the provisions of said section six relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section six. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section ten of this Act shall apply to any violation of the requirements of this proviso.

SEC. 23. [*Added March 2, 1889.*] That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the Act to which this is a supplement and all Acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, That if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, That the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this Act or the Act to which it is a supplement.

SEC. 24. [*Added June 29, 1906, amended August 9, 1917, and February 28, 1920.*] That the Commission is hereby enlarged so as to consist of eleven members, with terms of seven years, and each shall receive \$12,000 compensation annually. The qualifications of the members and the manner of payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1923, and one for a term expiring December 31, 1924. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full

term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than six commissioners shall be appointed from the same political party. Hereafter the salary of the secretary of the Commission shall be \$7,500 a year.

SEC. 25. [Added February 28, 1920.] (1) That every common carrier by water in foreign commerce, whose vessels are registered under the laws of the United States, shall file with the Commission, within thirty days after this section becomes effective and regularly thereafter as changes are made, a schedule or schedules showing for each of its steam vessels intended to load general cargo at ports in the United States for foreign destinations (a) the ports of loading, (b) the dates upon which such vessels will commence to receive freight and dates of sailing, (c) the route and itinerary such vessels will follow and the ports of call for which cargo will be carried.

(2) Upon application of any shipper a carrier by railroad shall make request for, and the carrier by water shall upon receipt of such request name, a specific rate applying for such sailing, and upon such commodity as shall be embraced in the inquiry, and shall name in connection with such rate, port charges, if any, which accrue in addition to the vessel's rates and are not otherwise published by the railway as in addition to or absorbed in the railway rate. Vessel rates, if conditioned upon quantity of shipment, must be so stated and separate rates may be provided for carload and less than carload shipments. The carrier by water, upon advices from a carrier by railroad, stating that the quoted rate is firmly accepted as applying upon a specifically named quantity of any commodity, shall, subject to such conditions as the Commission by regulation may prescribe, make firm reservation from unsold space in such steam vessel as shall be required for its transportation and shall so advise the carrier by railroad, in which advices shall be included the latest available information as to prospective sailing date of such vessel.

(3) As the matters so required to be stated in such schedule or schedules are changed or modified from time to time, the carrier shall file with the Commission such changes or modifications as early as practicable after such modification is ascertained. The Commission is authorized to make and publish regulations not inconsistent herewith governing the manner and form in which such carriers are to comply with the foregoing provisions. The Commission shall cause to be published in compact form, for the information of shippers of commodities throughout the country, the substance of such schedules, and furnish such publications to all railway carriers subject to this Act, in such quantities that railway carriers may supply to each of their agents who receive commodities for shipment in such cities and towns as may be specified by the Commission, a copy of said publication; the intent being that each shipping community sufficiently important, from the standpoint of the export trade, to be so specified by the Commission shall have opportunity to know the sailings and routes, and to ascertain the transportation charges of such vessels engaged in foreign commerce. Each railway carrier to which such publication is furnished by the Commission is hereby required to distribute the same as aforesaid and to maintain such publication as it is issued from time to time, in the hands of its agents. The Commission is authorized to make such rules and regulations not inconsistent herewith respecting the distribution and maintenance of such publications in the several communities so specified as will further the intent of this section.

(4) When any consignor delivers a shipment of property to any of the places so specified by the Commission, to be delivered by a railway carrier to one of the vessels upon which space has been reserved at a specified rate previously ascer-

---qualifications.

Salary of secretary.

41 Stat. L., 497.
Schedules to be filed by common carriers by water in foreign commerce.

Quotation on shipper's application of rate for sailing, and other accruing charges.

Vessel rates conditioned on quantity of shipment.

Reservation of space by water carrier for railroad.

Filing of modified schedules.

Commission may make regulations.

Publication of substance of schedules.

Distribution by railways.

Issuance of through bill of lading when space on vessel reserved.

Separate statement of charges.

Railroad not liable after delivery to vessel.

Form of through bill of lading may be prescribed.

Railroad to deliver shipment to vessel.

Through bill not arrangement for continuous carriage or shipment.

Commission may require installation of trainstop or control, or other safety devices.

41 Stat. L., 498.

Effect of not installing such devices on portions of road not included in order.

Penalty.

41 Stat. L., 499.
Act cited as "Interstate Commerce Act."

tained, as provided herein, for the transportation by water from and for a port named in the aforesaid schedule, the railway carrier shall issue a through bill of lading to the point of destination. Such bill of lading shall name separately the charge to be paid for the railway transportation, water transportation, and port charges, if any; not included in the rail or water transportation charge; but the carrier by railroad shall not be liable to the consignor, consignee, or other person interested in the shipment after its delivery to the vessel. The Commission shall, in such manner as will preserve for the carrier by water the protection of limited liability provided by law, make such rules and regulations not inconsistent herewith as will prescribe the form of such through bill of lading. In all such cases it shall be the duty of the carrier by railroad to deliver such shipment to the vessel as a part of its undertaking as a common carrier.

(5) The issuance of a through bill of lading covering shipments provided for herein shall not be held to constitute "an arrangement for continuous carriage or shipment" within the meaning of this Act.

SEC. 26. [*Added February 28, 1920.*] That the Commission may, after investigation, order any carrier by railroad subject to this Act, within a time specified in the order, to install automatic train-stop or train-control devices or other safety devices, which comply with specifications and requirements prescribed by the Commission, upon the whole or any part of its railroad, such order to be issued and published at least two years before the date specified for its fulfillment: *Provided*, That a carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its railroad not included in the order; and any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of its railroad. Any common carrier which refuses or neglects to comply with any order of the Commission made under the authority conferred by this section shall be liable to a penalty of \$100 for each day that such refusal or neglect continues, which shall accrue to the United States, and may be recovered in a civil action brought by the United States.

SEC. 27. [*Added February 28, 1920.*] That this Act may be cited as the "Interstate Commerce Act."

ELKINS ACT

(Approved February 19, 1903; amended June 29, 1906)

AN ACT To further regulate commerce with foreign nations and among the States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. *(As amended June 29, 1906.)*

That any thing done or omitted to be done by a corporation common carrier, subject to the Act to regulate commerce and the Act amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said Acts or under this Act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said Act or by this Act with reference to such persons, except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said Acts to file and publish the tariffs or rates and charges as required by said Acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than one thousand dollars nor more than twenty thousand dollars for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said Act to regulate commerce and the Acts amendatory thereof whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said Act to regulate commerce and the Acts amendatory thereof, or whereby any other advantage is given or discrimination is practiced. Every person or corporation, whether carrier or shipper, who shall, knowingly, offer, grant, or give, or solicit, accept, or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one thousand dollars nor more than twenty thousand dollars: *Provided*, That any person, or any officer or director of any corporation subject to the provisions of this Act, or the Act to regulate commerce and the Acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier, or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person. Whenever any carrier files with the Interstate Com-

Corporation as well as officer or agent liable.
32 Stat. L., 847.

34 Stat. L., 584.

Penalty.

Failure of carrier to publish rates or observe tariffs, a misdemeanor.

Penalty, fine.

Misdemeanor to offer, grant, give, solicit, accept, or receive any rebate, concession or discrimination.

Penalty, fine or imprisonment, or both.

Prosecutions may be in any district through which transportation passes.

Principals are liable for acts of agents.

Rates filed or participated in by carrier shall, as against such carrier, be deemed legal.

merce Commission or publishes a particular rate under the provisions of the Act to regulate commerce or Acts amendatory thereof, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this Act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this Act.

Forfeiture may be enforced against receivers of rebates.

Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier, subject to the provisions of this Act, or for whom as consignor or consignee, any such carrier shall transport property from one State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or foreign country, who shall knowingly by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in this Act, shall in addition to any penalty provided by this Act forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and the Attorney General of the United States is authorized and directed, whenever he has reasonable grounds to believe that any such person, corporation, or company has knowingly received or accepted from any such common carrier any sum of money or other valuable consideration as a rebate or offset as aforesaid, to institute in any court of the United States of competent jurisdiction a civil action to collect the said sum or sums so forfeited as aforesaid; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action, may be included therein, and the amount recovered shall be three times the total amount of money, or three times the total value of such consideration, so received or accepted, or both, as the case may be.

Persons interested in matters involved in cases before Interstate Commerce Commission or circuit court may be made parties and shall be subject to orders or decrees.

SEC. 2. That in any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before the Interstate Commerce Commission or be begun originally in any circuit court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent and be subject to the same provisions as are or shall be authorized by law with respect to carriers.

Court may restrain departures from published rates or any discrimination prohibited by law.

SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs

or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States, whenever the Attorney General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this Act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said Act Approved February fourth, eighteen hundred and eighty-seven, entitled "An Act to regulate commerce" and the Acts amendatory thereof. And in proceedings under this Act and the Acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence documentary or otherwise in such proceeding: *Provided*, That the provisions of an Act entitled "An Act to expedite the hearing and determination of suits in equity pending or hereafter brought under the Act of July second, eighteen hundred and ninety, entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' 'An Act to regulate commerce,' approved February fourth, eighteen hundred and eighty-seven, or any other Acts having a like purpose that may be hereafter enacted, approved February eleventh, nineteen hundred and three," shall apply to any case prosecuted under the direction of the Attorney General in the name of the Interstate Commerce Commission.

SEC. 4. That all Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed, but such repeal shall not affect causes now pending nor rights which have already accrued, but such causes shall be prosecuted to a conclusion and such rights enforced in a manner heretofore provided by law and as modified by the provisions of this Act.

SEC. 5. That this Act shall take effect from its passage.

Court may compel attendance and testimony of witnesses and production of books and papers.

Immunity.

Expediting "Act of Feb. 11, 1903, to apply in cases prosecuted under direction of Attorney General in name of Interstate Commerce Commission.

Conflicting laws repealed.

TRANSPORTATION ACT, 1920

AN ACT To provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an Act entitled "An Act to regulate commerce," approved February 4, 1887, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Title I. Definitions.

SECTION 1. This Act may be cited as the "Transportation Act, 1920."

SEC. 2. When used in this Act—

The term "Interstate Commerce Act" means the Act entitled "An Act to regulate commerce," approved February 4, 1887, as amended;

The term "Commerce Court Act" means the Act entitled "An Act to create a commerce court, and to amend an Act entitled 'An Act to regulate commerce,' approved February 4, 1887, as heretofore amended, and for other purposes," approved June 18, 1910;

The term "Federal Control Act" means the Act entitled "An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918, as amended;

The term "Federal control" means the possession, use, control, and operation of railroads and systems of transportation, taken over or assumed by the President under section 1 of the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916, or under the Federal Control Act; and

The term "Commission" means the Interstate Commerce Commission.

Title II. Termination of Federal Control

SEC. 200. (A) Federal control shall terminate at 12.01 a. m., March 1, 1920; and the President shall then relinquish possession and control of all railroads and systems of transportation then under Federal control and cease the use and operation thereof.

(b) Thereafter the President shall not have or exercise any of the powers conferred upon him by the Federal Control Act relating—

(1) To the use or operation of railroads or systems of transportation;

(2) To the control or supervision of the carriers owning or operating them, or of the business or affairs of such carriers;

(3) To their rates, fares, charges, classifications, regulations, or practices;

(4) To the purchase, construction, or other acquisition of boats, barges, tugs, and other transportation facilities on the inland, canal, or coastwise waterways; or (except in pursuance of contracts or agreements entered into before the termination of Federal control) of terminals, motive power, cars, or equipment, on or in connection with any railroad or system of transportation;

(5) To the utilization or operation of canals;

(6) To the purchase of securities of carriers, except in pursuance of contracts or agreements entered into before the termination of Federal control, or as a necessary or proper incident to the adjustment, settlement, liquidation and winding up of matters arising out of Federal control; or

(7) To the use for any of the purposes above stated (except in pursuance of contracts or agreements entered into before the termination of Federal control, and except as a necessary or proper incident to the winding up or settling of matters arising out of Federal control, and except as provided in section 202) of the revolving fund created by such Act, or of any of the additions thereto made under such Act, or by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transportation systems

while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918," approved June 30, 1919.

(c) Nothing in this Act shall be construed as affecting or limiting the power of the President in time of war (under section 1 of the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 20, 1916) to take possession and assume control of any system of transportation and utilize the same.

Government-Owned Boats on Inland Waterways

SEC. 201. (a) On the termination of Federal control, as provided in section 200, all boats, barges, tugs, and other transportation facilities, on the inland, canal, and coastwise waterways (hereinafter in this section called "transportation facilities") acquired by the United States in pursuance of the fourth paragraph of section 6 of the Federal Control Act (except the transportation facilities constituting parts of railroads or transportation systems over which Federal control was assumed) are transferred to the Secretary of War, who shall operate or cause to be operated such transportation facilities so that the lines of inland water transportation established by or through the President during Federal control shall be continued, and assume and carry out all contracts and agreements in relation thereto entered into by or through the President in pursuance of such paragraph prior to the time above fixed for such transfer. All payments under the terms of such contracts, and for claims arising out of the operation of such transportation facilities by or through the President prior to the termination of Federal control, shall be made out of moneys available under the provisions of this Act for adjusting, selling, liquidating, and winding up matters arising out of or incident to Federal control. Moneys required for such payments shall, from time to time, be transferred to the Secretary of War as required for payment under the terms of such contracts.

(b) All other payments after such transfer in connection with the construction, utilization, and operation of any such transportation facilities, whether completed or under construction, shall be made by the Secretary of War out of funds now or hereafter available for that purpose.

(c) The Secretary of War is hereby authorized, out of any moneys hereafter made available therefor, to construct or contract for the construction of terminal facilities for the interchange of traffic between the transportation facilities operated by him under this section and other carriers whether by rail or water, and to make loans for such purposes under such terms and conditions as he may determine to any State whose constitution prohibits the ownership of such terminal facilities by other than the State or a political subdivision thereof.

(d) Any transportation facilities owned by the United States and included within any contract made by the United States for operation on the Mississippi River above Saint Louis, the possession of which reverts to the United States at or before the expiration of such contract, shall be operated by the Secretary of War so as to provide facilities for water carriage on the Mississippi River above Saint Louis.

(e) The operation of the transportation facilities referred to in this section shall be subject to the provisions of the Interstate Commerce Act as amended by this Act or by subsequent legislation, and to the provisions of the "Shipping Act, 1916," as now or hereafter amended, in the same manner and to the same extent as if such transportation facilities were privately owned and operated; and all such vessels while operated and employed solely as merchant vessels shall be subject to all other laws, regulations, and liabilities governing merchant vessels, whether the United States is interested therein as owner, in whole or in part, or holds any mortgage, lien, or interest therein. For the performance of the duties imposed by this section the Secretary of War is authorized to appoint or employ such number of experts, clerks, and other employees as may be necessary for service in the District of Columbia or elsewhere, and as may be provided for by Congress.

Settlement of Matters Arising Out of Federal Control

SEC. 202. The President shall, as soon as practicable after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all questions and dis-

putes of whatsoever nature, arising out of or incident to Federal control. For these purposes and for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal Control Act or of the moneys appropriated by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," approved June 30, 1919, are hereby reappropriated and made available until expended; and all moneys derived from the operation of the carriers or otherwise arising out of Federal control, and all moneys that have been or may be received in payment of the indebtedness of any carriers of the United States arising out of Federal control, shall be and remain available until expended for the aforesaid purposes; and there is hereby appropriated for the aforesaid purposes, out of any money in the Treasury not otherwise appropriated, \$200,000,000 in addition to the above, to be available until expended.

Compensation of Carriers With Which No Contract Made

SEC. 203. (a) Upon the request of any carrier entitled to just compensation under the Federal Control Act, but with which no contract fixing or waiving compensation has been made and which has made no waiver of compensation, the President: (1) shall pay to it so much of the amount he may determine to be just compensation as may be necessary to enable such carrier to have the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal Control Act, and also the sums required for dividends declared and paid during the same period, including also in addition, a sum equal to that portion of such last dividend which the period between its payment and the termination of the period for which the carrier is entitled to just compensation under the Federal Control Act bears to the last dividend period; and (2) may, in his discretion, pay to such carrier the whole or any part of the remainder of such estimated amount of just compensation.

(b) The acceptance of any benefits by a carrier under this section—

(1) shall not deprive it of the right to claim additional compensation, which, unless agreed upon shall be ascertained in the manner provided in section 3 of the Federal Control Act; but

(2) shall constitute an acceptance by the carrier of all the provisions of the Federal Control Act as modified by this Act and obligate the carrier to pay to the United States with interest at the rate of 6 per centum per annum from a date or dates fixed in proceedings under section 3 of the Federal Control Act, the amount by which the sums received on account of such compensation, under this section or otherwise, exceed the sum found due in such proceedings.

Reimbursement of Deficits During Federal Control

SEC. 204. (a) When used in this section—

The term "carrier" means a carrier by railroad which during any part of the period of Federal control, engaged as a common carrier in general transportation, and competed for traffic or connected with a railroad under Federal control and which sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation; but does not include any street or interurban electric railway which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat and light, or both; and

The term "test period" means the three years ending June 30, 1917.

(b) For the purposes of this section—

Railway operating income or any deficit therein for the period of Federal control shall be computed in a manner similar to that provided in section 209 with respect to such income or deficit for the guaranty period; and

Railway operating income or any deficit therein for the test period shall be computed in the manner provided in section 1 of the Federal Control Act.

(c) As soon as practicable after March 1, 1920, the commission shall ascertain for every carrier, for every month of the period of Federal control during which its railroad or system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any (hereinafter called "Federal control return"), and the average of its deficit in railway operating income, if any, and of its railway operating income, if any, for the three corresponding months of the test period taken together (hereinafter called "test period return"): Provided, That "test period return," in the case of a carrier which operated its railroad or system of transportation for at least one year during, but not for the whole of, the test period, means its railway operating income, or the deficit therein, for the corresponding month during the test period, or the average thereof for the corresponding months during the test period taken together, during which the carrier operated its railroad or system of transportation.

(d) For every month of the period of Federal control during which the railroad or system of transportation of the carrier was not under Federal operation, the Commission shall then ascertain (1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or (2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or (3) the sum of its Federal control return, if a deficit, plus its test period return, if an income. The sum of such amounts shall be credited to the carrier.

(e) For every such month the Commission shall then ascertain (1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income or (2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or (3) the sum of its Federal control return, if an income, plus its test period return, if a deficit. The sum of such amounts shall be credited to the United States.

(f) If the sum of the amounts so credited to the carrier under subdivision (d) exceeds the sum of the amounts so credited to the United States under subdivision (e) the difference shall be payable to the carrier. In the case of a carrier which operated its railroad or system of transportation for less than a year during, or for none of, the test period, the foregoing computations shall not be used, but there shall be payable to such carrier its deficit in railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation.

(g) The Commission shall promptly certify to the Secretary of the Treasury the several amounts payable to carriers under paragraph (f). The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States for the amount shown in such certificate as payable thereto. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Inspection of Carriers' Records

SEC. 205. The President shall have the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all carriers whose railroads or systems of transportation were at any time under Federal control, whenever such inspection is necessary or appropriate (1) to protect the interests of the United States, or (2) to supervise matters being handled for the United States by agents of the carriers, or (3) to secure information concerning matters arising during Federal control, and such carriers shall provide all reasonable facilities therefor, including the issuance of free transportation to all agents of the President while traveling on official business for these purposes.

Such carriers shall, at their expense, upon the request of the President, or those duly authorized by him, furnish all necessary and proper information and reports compiled from the records made or kept during the period of Federal control affecting their respective lines, and shall keep and continue such records and furnish like information and reports compiled therefrom.

Any carrier which refuses or obstructs such inspection, or which wilfully fails to provide reasonable facilities therefor, or to furnish such information or reports shall be liable to a penalty of \$500

for each day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action to be brought by the United States.

Causes of Action Arising Out of Federal Control

SEC. 206. (a) Actions at law, suits in equity and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal Control Act, or of the Act of August 29, 1916) of such character as prior to Federal control could have been brought against such carrier, may, after the termination of Federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within thirty days after the passage of this Act. Such actions, suits, or proceedings may, within the periods of limitation now prescribed by State or Federal statutes but not later than two years from the date of the passage of this Act, be brought in any court which but for Federal control would have had jurisdiction of the cause of action had it arisen against such carrier.

(b) Process may be served upon any agent or officer of the carrier operating such railroad or system of transportation, if such agent or officer is authorized by law to be served with process in proceedings brought against such carrier and if a contract has been made with such carrier by or through the President for the conduct of litigation arising out of operation during Federal control. If no such contract has been made process may be served upon such agents or officers as may be designated by or through the President. The agent designated by the President under subdivision (a) shall cause to be filed, upon the termination of Federal control, in the office of the Clerk of each District Court of the United States, a statement naming all carriers with whom he has contracts for the conduct of litigation arising out of operation during Federal control, and a like statement designating the agents or officers upon whom process may be served in actions, suits, and proceedings arising in respect to railroads or systems of transportation with the owner of which no such contract has been made; and such statements shall be supplemented from time to time, if additional contracts are made or other agents or officers appointed.

(c) Complaints praying for reparation on account of damage claimed to have been caused by reason of the collection or enforcement by or through the President during the period of Federal control of rates, fares, charges, classifications, regulations, or practices (including those applicable to interstate, foreign or intrastate traffic) which were unjust, unreasonable, unjustly discriminatory, or unduly or unreasonably prejudicial, or otherwise in violation of the Interstate Commerce Act, may be filed with the Commission, within one year after the termination of Federal control, against the agent designated by the President under subdivision (a), naming in the petition the railroad or system of transportation against which such complaint would have been brought if such railroad or system had not been under Federal control at the time the matter complained of took place. The Commission is hereby given jurisdiction to hear and decide such complaints in the manner provided in the Interstate Commerce Act, and all notices and orders in such proceedings shall be served upon the agent designated by the President under subdivision (a).

(d) Actions, suits, proceedings, and reparation claims, of the character above described pending at the termination of Federal control shall not abate by reason of such termination, but may be prosecuted to final judgment, substituting the agent designated by the President under subdivision (a).

(e) Final judgments, decrees, and awards in actions, suits, proceedings, or reparation claims, of the character above described, rendered against the agent designated by the President under subdivision (a), shall be promptly paid out of the revolving fund created by section 210.

(f) The period of Federal control shall not be computed as a part of the periods of limitation in action against carriers or in claims for reparation to the Commission for causes of action arising prior to Federal control.

(g) No execution or process, other than on a judgment recovered by the United States against a carrier, shall be levied upon the property of any carrier where the cause of action on account of which the judgment was obtained grew out of the possession, use, control, or operation of any railroad or system of transportation by the President under Federal control.

Refunding of Carriers' Indebtedness to United States

SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation. Provided, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract, accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, including, also in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period; And provided further, that such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of ten years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, payable semi-annually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

(c) If the President and the various carriers, or any of them, shall enter into an agreement for funding, through the medium of car trust certificates, or otherwise, the indebtedness of any such carrier to the United States incurred for equipment ordered for the benefit of such carrier, such indebtedness so funded shall not be refundable under the foregoing provisions.

(d) Any other indebtedness of any such carrier to the United States which may exist after the settlement of accounts between the United States and the carrier and is then due shall be evidenced by notes payable in one year from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, and secured by such collateral security as the President may deem it advisable to require.

(e) With respect to any bonds, notes, or other securities, acquired under the provisions of this section or of the Federal Control Act or of the Act entitled "An Act to provide for the reimbursement of the United States for motive power, cars and other equipment ordered for railroads and systems of transportation under Federal control, and for other purposes," approved November 19, 1919, the President shall have the right to make such arrangements for extension of the time of payment or for the exchange of any of them for other securities, or partly for cash and partly for securities, as may be provided for in any agreement entered into by him or as may in his judgment seem desirable.

(f) Carriers may, by agreement with the President, issue notes or other evidences of indebtedness, secured by equipment trust agreements, for equipment purchased during Federal control by or through the President under section 6 of the Federal Control Act, and allocated to such carriers respectively; and the filing of such equipment trust agreements with the commission shall constitute notice thereof to all the world.

(g) A carrier may issue evidences of indebtedness pursuant to this section without the author-

ization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

Existing Rates to Continue in Effect

SEC. 208. (a) All rates, fares, and charges, and all classifications, regulations, and practices, in any wise changing, affecting, or determining, any part or the aggregate of rates, fares, or charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, and no such classification, regulation, or practice shall be changed in such manner as to reduce any such rate, fare, or charge, unless such reduction or change is approved by the Commission.

(b) All divisions of joint rates, fares, or charges, which on February 29, 1920, are in effect between the lines of carriers subject to the Interstate Commerce Act, shall continue in force and effect until thereafter changed by mutual agreement between the interested carriers or by State or Federal authorities, respectively.

(c) Any land grant railroad organized under the Act of July 28, 1866 (chapter 300), shall receive the same compensation for transportation of property and troops of the United States as is paid to land grant railroads organized under the Land Grant Act of March 3, 1863, and the Act of July 27, 1866 (chapter 278).

Guaranty to Carriers After Termination of Federal Control

SEC. 209. (a) When used in this section—

The term "carrier" means (a) a carrier by railroad or partly by railroad and partly by water, whose railroad or system of transportation is under Federal control at the time Federal control terminates, or which has heretofore engaged as a common carrier in general transportation and competed for traffic, or connected, with a railroad at any time under Federal control; and (2) a sleeping car company whose system of transportation is under Federal control at the time Federal control terminates; but does not include a street or interurban electric railway not under Federal control at the time Federal control terminates, which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both;

The term "guaranty period" means the six months beginning March 1, 1920.

The term "test period" means the three years ending June 30, 1917; and

The term "railway operating income," and other references to accounts of carriers by railroad shall, in the case of a sleeping car company, be construed as indicating the appropriate corresponding accounts in the accounting system prescribed by the Commission.

(b) This section shall not be applicable to any carrier which does not on or before March 15, 1920, file with the Commission a written statement that it accepts all the provisions of this section.

(c) The United States hereby guarantees—

(1) With respect to any carrier with which a contract (exclusive of so-called cooperative contracts or waivers) has been made fixing the amount of just compensation under the Federal Control Act, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, or, where the contract fixed a lump sum as compensation for the whole period of Federal operations, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than an amount which shall bear the same proportion to the lump sum so fixed as six months bears to the number of months during which such carrier was under Federal operation, including in both cases the increases in such compensation provided for in section 4 of the Federal Control Act;

(2) With respect to any carrier entitled to just compensation under the Federal Control Act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal Control Act, including

the increases in such compensation provided for in section 4 of the Federal Control Act. If any such carrier does not accept the President's estimate respecting its just compensation, and if in proceeding under section 3 of the Federal Control Act it is determined that a larger or smaller annual amount is due as just compensation, the guaranty under this paragraph shall be increased or decreased accordingly;

(3) With respect to any carrier, whether or not entitled to just compensation under the Federal Control Act, with which such a contract has not been made, and for which no estimate of just compensation is made by the President, and which for the test period as a whole sustained a deficit in railway operating income, the guaranty shall be a sum equal to (a) the amount by which any deficit in its railway operating income for the guaranty period as a whole exceeds one-half of its average annual deficit in railway operating income for the test period, plus (b) an amount equal to one-half the annual sum fixed by the President under section 4 of the Federal Control Act;

(4) With respect to any carrier not entitled to just compensation under the Federal Control Act, which for the test period as a whole had an average annual railway operating income, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the average annual railway operating income of such carrier during the test period.

(d) If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (1), (2), or (4) of subdivision (c) is in excess of the minimum railway operating income guaranteed in such paragraph, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (3) of subdivision (c) is in excess of one-half of the annual sum fixed by the President with respect to such carrier under section 4 of the Federal Control Act, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. The amounts so paid into the Treasury of the United States shall be added to the funds made available under section 202 for the purposes indicated in such section. Notwithstanding the provisions of this subdivision, any carrier may retain out of any such excess any amount necessary to enable it to pay its fixed charges accruing during the guaranty period.

(e) For the purposes of this section railway operating income, or any deficit therein, for the test period shall be computed in the manner provided for in section 1 of the Federal Control Act.

(f) In computing railway operating income, or any deficit therein, for the guaranty period for the purposes of this section—

(1) Debits and credits arising from the accounts, called in the monthly reports to the Commission equipment rents and joint facility rents, shall be included, but debits and credits arising from the operation of such street electric passenger railways, including railways commonly called interurbans, as are not under Federal control at the time of termination thereof, shall be excluded;

(2) Proper adjustments shall be made (a) in case any lines which were, during any portion of the period of Federal control, a part of the railroad or system of transportation of the carrier, and whose railway operating income was included in such income of the carrier for the test period, do not continue to be a part of such railroad or system of transportation during the entire guaranty period, and (b) in case of any lines acquired by, leased to, or consolidated with, the railroad or system of transportation of the carrier at any time since the end of the test period and prior to the expiration of the guaranty period, for which separate operating returns to the Commission are not made in respect to the entire portion of the guaranty period;

(3) There shall not be included in operating expenses, for maintenance of ways and structures, or for maintenance of equipment, more than an amount fixed by the Commission. In fixing such amount the Commission shall so far as practicable apply the rules set forth in the proviso in paragraph (a) of section 5 of the "standard contract" between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed);

(4) There shall not be included any taxes paid under Title I or II of the Revenue Act of 1917, or such portion of the taxes paid under Title II or III of the Revenue Act of 1918 as by the terms

of such Act are to be treated as levied by an Act in amendment of Title I or II of the Revenue Act of 1917; and

(5) The Commission shall require the elimination and restatement of the operating expenses and revenues (other than for maintenance of way and structures, or maintenance of equipment) for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period.

(g) The Commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the several amounts necessary to make good the foregoing guaranty to each carrier. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States, for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

(h) Upon application of any carrier to the Commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty as are necessary to enable it to meet its fixed charges and operating expenses, the Commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by the carrier of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this section such carrier will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per centum per annum from the time such excess was paid. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

(i) If the American Railway Express Company shall, on or before March 15, 1920, file with the Commission a written statement that it accepts all the provisions of this subdivision, the contract of June 26, 1918, between such company and the Director General of Railroads, as amended and continued by agreement dated November 21, 1918, shall remain in full force and effect during the guaranty period in so far as the same constitutes a guaranty on the part of the United States to such company against a deficit in operating income.

In computing operating income, and any deficit therein, for the guaranty period for the purposes of this subdivision, the Commission shall require the elimination and restatement of the operating expenses and revenues for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such periods, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period, and to exclude from operating expenses so much of the charge for payment for express privileges to carriers on whose lines the express traffic is carried as is in excess of 50.25 per centum of gross express revenue.

For the guaranty period the American Railway Express Company shall pay to every carrier which accepted the provisions of this section, as provided in subdivision (b) hereof, 50.25 per centum of the gross revenue earned on the transportation of all its express traffic on the carrier's lines, and every such carrier shall accept from the American Railway Express Company such percentage of the gross revenue as its compensation. In arriving at the gross revenue on through or joint express traffic, the method of dividing the revenue between the carriers shall be that agreed upon between the carriers and such express company and approved by the Commission.

If for the guaranty period as a whole the American Railway Express Company does not have a deficit in operating income, it shall forthwith pay the amount of its operating income for such period into the Treasury of the United States. The amount so paid shall be added to the funds made available under section 202 for the purposes indicated in such section.

The Commission shall, as soon as practicable after the expiration of the guaranty period, certify to the Secretary of the Treasury the amount necessary to make good the foregoing guaranty to the American Railway Express Company. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of such company upon the Treasury of the United States for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Upon application of the American Railway Express Company to the Commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its operating expenses, the Commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by such company of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this subdivision such company will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per centum per annum from the time such excess was paid. There is hereby appropriated out of any money in the Treasury not otherwise appropriated a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

New Loans to Railroads

SEC. 210. (a) For the purpose of enabling carriers by railroad subject to the Interstate Commerce Act properly to serve the public during the transition period immediately following the termination of Federal control, any such carrier may, at any time after the passage of this Act and before the expiration of two years after the termination of Federal control, make application to the Commission for a loan from the United States, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the Commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the Commission may deem pertinent to the inquiry.

(b) If the Commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan by the United States is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the Commission may certify to the Secretary of the Treasury its finding of fact and its recommendations as to the amount of the loan which is to be made; the time, not exceeding five years from the making thereof, within which it is to be repaid; the character of the security which is to be offered therefor; and the terms and conditions of the loan.

(c) Upon receipt of such certificate from the Commission, the Secretary of the Treasury, at any time before the expiration of twenty-six months after the termination of Federal control, is authorized to make a loan, not exceeding the maximum amount recommended in such certificate, out of any moneys in the revolving fund provided for in this section. All such loans shall bear interest at the rate of 6 per centum per annum, payable semi-annually to the Secretary of the Treasury and to be placed to the credit of the revolving fund provided for in this section. The time, not

exceeding five years from the making thereof, within which such loan is to be repaid, the security which is to be taken therefor, which shall be adequate to secure the loan, the terms and conditions of the loan, and the form of the obligation to be entered into, shall be prescribed by the Secretary of the Treasury.

(d) The Commission or the Secretary of the Treasury may call upon the Federal Reserve Board for advice and assistance with respect to any such application or loan.

(e) There is hereby appropriated out of any moneys in the Treasury not otherwise appropriated the sum of \$300,000,000, which shall be used as a revolving fund for the purpose of making the loans provided for in this section, and for paying the judgments, decrees, and awards referred to in subdivision (e) of section 206.

(f) A carrier may issue evidences of indebtedness to the United States pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

Execution of Powers of President

SEC. 211. All powers and duties conferred or imposed upon the President by the preceding sections of this Act, except the designation of the agent under section 206, may be executed by him through such agency or agencies as he may determine.

Title III. Disputes Between Carriers and Their Employees and Subordinate Officials

SEC. 300. When used in this title—

(1) The term "carrier" includes any express company, sleeping car company, and any carrier by railroad, subject to the Interstate Commerce Act, except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation;

(2) The term "Adjustment Board" means any Railroad Board of Labor Adjustment established under section 302;

(3) The term "Labor Board" means the Railroad Labor Board;

(4) The term "commerce" means commerce among the several States or between any State Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation; and

(5) The term "subordinate official" includes officials of carriers of such class or rank as the Commission shall designate by regulation formulated and issued after such notice and hearing as the Commission may prescribe, to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations.

SEC. 301. It shall be the duty of all carriers and their officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

SEC. 302. Railroad Boards of Labor Adjustment may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof.

SEC. 303. Each such Adjustment Board shall, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the Adjustment Board's

own motion, or (4) upon the request of the Labor Board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence, decide any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials, who are, or any organization thereof which is, in accordance with the provisions of section 302, represented upon any such Adjustment Board.

SEC. 304. There is hereby established a board to be known as the "Railroad Labor Board" and to be composed of nine members as follows:

(1) Three members constituting the labor group, representing the employees and subordinate officials of the carriers to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by such employees in such manner as the Commission shall by regulation prescribe;

(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the Commission shall by regulation prescribe; and

(3) Three members, constituting the public group, representing the public, to be appointed by the President, by and with the advice and consent of the Senate.

Any vacancy on the Labor Board shall be filled in the same manner as the original appointment.

SEC. 305. If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the Commission, as provided in paragraphs (1) and (2) of section 304, within 30 days after the passage of this Act in case of any original appointment to the office of member of the Labor Board, or in case of a vacancy in any such office within fifteen days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall, as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent.

SEC. 306 (a) Any member of the Labor Board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the Labor Board; but no such member is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

(b) Of the original members of the Labor Board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of \$10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

SEC. 307. (a) The Labor Board shall hear and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any Adjustment Board certifies to the Labor Board that in its opinion the Adjustment Board has failed or will fail to reach a decision within a reasonable time, or in respect to which the Labor Board determines that any Adjustment Board has so failed or is not using due diligence in its consideration thereof. In case the appropriate Adjustment Board is not organized under the provisions of section 302, the Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions

which is not decided as provided in section 301 and which such Adjustment Board would be required to receive for hearing and decision under the provisions of section 303.

(b) The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate official whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials or carriers, not decided as provided in section 301. The Labor Board may upon its own motion within ten days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

(c) A decision by the Labor Board under the provisions of paragraphs (a) or (b) of this section shall require the concurrence therein of at least 5 of the 9 members of the Labor Board:—PROVIDED, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision. All decisions of the Labor Board shall be entered upon the records of the board and copies thereof, together with such statement of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, the President, each Adjustment Board, and the Commission, and shall be given further publicity in such manner as the Labor Board may determine.

(d) All the decisions of the Labor Board in respect to wages or salaries and of the Labor Board or an Adjustment Board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration among other relevant circumstances:

- (1) The scales of wages paid for similar kinds of work in other industries;
- (2) The relation between wages and the cost of living;
- (3) The hazards of the employment;
- (4) The training and skill required;
- (5) The degree of responsibility;
- (6) The character and regularity of the employment; and
- (7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

SEC. 308. The Labor Board.

- (1) Shall elect a chairman by majority vote of its members;
- (2) Shall maintain central offices in Chicago, Illinois, but the Labor Board may, whenever it deems it necessary, meet at such other place as it may determine;
- (3) Shall investigate and study the relations between carriers and their employees, particularly questions relating to wages, hours of labor, and other conditions of employment and the respective privileges, rights, and duties of carriers and employees, and shall gather, compile, classify, digest and publish, from time to time, data and information relating to such questions to the end that the Labor Board may be properly equipped to perform its duties under this title and that the members of the Adjustment Boards and the public may be properly informed.

(4) May make regulations necessary for the efficient execution of the functions vested in it by this title; and

(5) Shall at least annually collect and publish the decisions and regulations of the Labor Board and the Adjustment Boards and all court and administrative decisions and regulations of the Commission in respect to this title, together with a cumulative index-digest thereof.

SEC. 309. Any party to any dispute to be considered by an Adjustment Board or by the Labor Board shall be entitled to a hearing either in person or by counsel.

SEC. 310. (a) For the efficient administration of the functions vested in the Labor Board by this title, any member thereof may require, by subpoena issued and signed by himself, the attendance of any witness and the production of any book, paper, document, or other evidence from any place in the United States at any designated place of hearing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition the testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed to by the deponent. Any member of the Labor Board may administer oaths and examine any witness. Any witness summoned before the board and any witness whose deposition is taken shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) In case of failure to comply with any subpoena or in case of the contumacy of any witness appearing before the Labor Board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpoena or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpoena and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 311. (a) When necessary to the efficient administration of the functions vested in the Labor Board by this title, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination have access to and the right to copy any book, account, record, paper or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who upon demand refuses any duly authorized member, officer, employee, or agent of the Labor Board such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of \$500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Every officer or employee of the United States, whenever requested by any member of the Labor Board or an Adjustment Board duly authorized by the board for the purpose, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this title, which may be contained in the records of his office.

(c) The President is authorized to transfer to the Labor Board any books, papers, or documents pertaining to the administration of the functions vested in the board by this title, which are in the possession of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act and which are no longer necessary to the administration of the affairs of such agency.

SEC. 312. Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decision of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act, in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920. Any carrier acting in violation of any provision of this section shall upon conviction thereof be liable to a penalty of \$100 for each such offense. Each such action with respect to any such employee or subordinate official and each day or portion thereof during which the offense continues shall constitute a separate offense. Such penalty

shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 313. The Labor Board, in case it has reason to believe that any decision of the Labor Board or of an Adjustment Board is violated by any carrier, or employee or subordinate official, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred and make public its decision in such manner as it may determine.

SEC. 314. The Labor Board may (1) appoint a secretary, who shall receive from the United States an annual salary of \$5,000; and (2) subject to the provisions of the civil-service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agents, and witness fees, as are necessary for the efficient execution of the function vested in the board by this title and as may be provided for by Congress from time to time. All of the expenditures of the Labor Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the Labor Board.

SEC. 315. There is hereby appropriated for the fiscal year ending June 30, 1920, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, or so much thereof as may be necessary, to be expended by the Labor Board, for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this title.

SEC. 316. The powers and duties of the Board of Mediation and Conciliation created by the Act approved July 15, 1913, shall not extend to any dispute which may be received for hearing and decision by any Adjustment Board or the Labor Board.

Title IV. Amendments to Interstate Commerce Act

[Title IV, sections 400 to 441, inclusive, contain amendments to the Interstate Commerce Act, which have been incorporated in the appropriate sections therein (see pages 188 to 220).]

Title V. Miscellaneous Provisions

SEC. 500. It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

It shall be the duty of the Secretary of War, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs and switches connecting with such terminals, with a view to devising the types most appropriate for different locations, and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities; to investigate the existing status of water transportation upon the different inland waterways of the country, with a view to determining whether such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of War to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

The words "inland waterway" as used in this section shall be construed to include the Great Lakes.

SEC. 501. The effective date on and after which the provisions of section 10 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall become and be effective is hereby deferred and extended to January 1, 1921: PROVIDED, That such extension shall not apply in the case of any corporation organized after January 12, 1918.

SEC. 502. That if any clause, sentence, paragraph, or part of this Act shall for any reason be judged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

Approved February 28, 1920.

BILLS OF LADING ACT

(Approved August 29, 1916, effective January 1, 1918)

AN ACT Relating to bills of lading in interstate and foreign commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That bills of lading issued by any common carrier for the transportation of goods in any Territory of the United States, or the District of Columbia, or from a place in a State to a place in a foreign country, or from a place in one State to a place in another State, or from a place in one State to a place in the same State through another State or foreign country, shall be governed by this act.

Bills of lading.
39 Stat. L., 538.
Issued in interstate
and foreign commerce
governed hereby.

SECTION 2. That a bill in which it is stated that the goods are consigned or destined to a specified person is a straight bill.

Straight bills defined.

SEC. 3. That a bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill is an order bill. Any provision in such a bill or in any notice, contract, rule, regulation, or tariff that it is non-negotiable shall be null and void and shall not affect its negotiability within the meaning of this act unless upon its face and in writing agreed to by the shipper.

Order bills defined.

Negotiability.

SEC. 4. That order bills issued in a State for the transportation of goods to any place in the United States on the Continent of North America, except Alaska and Panama, shall not be issued in parts or sets. If so issued, the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts: *Provided, however,* That nothing contained in this section shall be interpreted or construed to forbid the issuing of order bills in parts or sets for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries, or to impose the liabilities set forth in this section for so doing.

Issued in part for
continental use, forbid-
den.

Proviso.

For insular, etc., use
permitted.

SEC. 5. That when more than one order bill is issued in a State for the same goods to be transported to any place in the United States on the Continent of North America, except Alaska and Panama, the word "duplicate" or some other word or words indicating that the document is not an original bill, shall be placed plainly upon the face of every such bill except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill: *Provided, however,* That nothing contained in this section shall in such case for such transportation of goods to Alaska, Panama, Porto Rico, the Philippines, Hawaii, or foreign countries be interpreted or construed so as to require the placing of the word "duplicate" thereon, or to impose the liabilities set forth in this section for failure so to do.

Duplicates.
Character to be not-
ed.

Liability for failure.

Exceptions.

SEC. 6. That a straight bill shall have placed plainly upon its face by the carrier issuing it "nonnegotiable" or "not negotiable."

Straight bills not ne-
gotiable.

This section shall not apply, however, to memoranda or acknowledgment of an informal character.

Memoranda.

SEC. 7. That the insertion in an order bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

Negotiability of or-
der bills.

Carrier to deliver goods on demand.

SEC. 8. That a carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods or, if the bill is an order bill, by the holder thereof, if such a demand is accompanied by—

Conditions.

- (a) An offer in good faith to satisfy the carrier's lawful lien upon the goods;
- (b) Possession of the bill of lading and an offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is an order bill; and
- (c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

Lawful excuse.

In case the carrier refuses or fails to deliver the goods, in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

To whom carrier shall deliver goods.

SEC. 9. That a carrier is justified, subject to the provisions of the three following sections, in delivering goods to one who is—

- (a) A person lawfully entitled to the possession of the goods, or
- (b) The consignee named in a straight bill for the goods, or
- (c) A person in possession of an order bill for the goods, by the terms of which the goods are deliverable to his order; or which has been indorsed to him, or in blank by the consignee, or by the immediate indorsee of the consignee.

Liability for unlawful delivery.

SEC. 10. That where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

- (a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or
- (b) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

Exceptions.

Such request or information, to be effective within the meaning of this section, must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

Failure to deliver goods.

SEC. 11. That except as provided in section twenty-six, and except when compelled by legal process, if a carrier delivers goods for which an order bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

Delivery of part of the goods.

SEC. 12. That except as provided in section twenty-six, and except when compelled by legal process, if a carrier delivers part of the goods for which an order bill had been issued and fails either—

- (a) To take up and cancel the bill, or
- (b) To place plainly upon it a statement that a portion of the goods has been delivered with a description which may be in general terms either of the goods or

packages that have been so delivered or of the goods or packages which still remain in the carrier's possession, he shall be liable for failure to deliver all the goods specified in the bill to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

SEC. 13. That any alteration, addition, or erasure in a bill after its issue without authority issuing the same, either in writing or noted on the bill, shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

Alteration of a bill.

SEC. 14. That where an order bill has been lost, stolen, or destroyed a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss, theft, or destruction and upon the giving of a bond, with sufficient surety, to be approved by the court, to protect the carrier or any person injured by such delivery from any liability or loss incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees: Provided, a voluntary indemnifying bond without order of court shall be binding on the parties thereto.

Lost, stolen, or destroyed bill.

The delivery of the goods under an order of the court, as provided in this section, shall not relieve the carrier from liability to a person to whom the order bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

Delivery of goods under order of court.

SEC. 15. That a bill, upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed, plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

Liability under "duplicates."

SEC. 16. That no title to goods or right to their possession asserted by a carrier for his own benefit shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived or indirectly form a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

Carrier's title to goods.

SEC. 17. That if more than one person claim the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for non-delivery of the goods or as an original suit, whichever is appropriate.

Different claimants.

SEC. 18. That if some one other than the consignee or the person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods, either to the consignee or person in possession of the bill or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

Claimants may interplead.

SEC. 19. That except as provided in the two preceding sections and in section nine, no right or title of a third person, unless enforced by legal process, shall be a defense to an action brought by the consignee of a straight bill or by the holder of an order bill against the carrier for failure to deliver the goods on demand.

Defenses against holders of bills.

SEC. 20. That when goods are loaded by a carrier such carrier shall count the packages of goods, if package freight, and ascertain the kind and quantity if bulk freight, and such carrier shall not, in such cases, insert in the bill of lading or in any

When goods are loaded by a carrier.

notice, receipt, contract, rule, regulation, or tariff, "Shipper's weight, load, and count," or other words of like purport, indicating that the goods were loaded by the shipper and the description of them made by him, or in case of bulk freight and freight not concealed by packages the description made by him. If so inserted, contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

When goods are loaded by a shipper.

SEC. 21. That when package freight or bulk freight is loaded by a shipper and the goods are described in a bill of lading merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill of lading that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill of lading, such statements, if true, shall not make liable the carrier issuing the bill of lading, although the goods are not the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may also by inserting in the bill of lading the words "Shipper's weight, load, and count," or other words of like purport indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the nonreceipt or by the mid-description of the goods described in the bill of lading: *Provided, however,* Where the shipper of bulk freight installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier, then the carrier, upon written request of such shipper and when given a reasonable opportunity so to do, shall ascertain the kind and quantity of bulk freight within a reasonable time after such written request, and the carriers shall not in such cases insert in the bill of lading the words "Shipper's weight," or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein.

Conditions.

Shipper's scales.

Liability of carrier.

SEC. 22. That if a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations, the carrier shall be liable to (a) the owner of goods covered by a straight bill subject to existing right of stoppage in transitu or (b) the holder of an order bill, who has given value in good faith, relying upon the description therein of the goods, for damages caused by the non-receipt by the carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

Garnishment.

SEC. 23. That if goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner, and an order bill is issued for them, they can not thereafter, while in the possession of the carrier, be attached by garnishment or otherwise or be levied upon under an execution unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

Injunction.

SEC. 24. That a creditor whose debtor is the owner of an order bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which can not readily be attached or levied upon by ordinary legal process.

SEC. 25. That if an order bill is issued the carrier shall have a lien on the goods therein mentioned on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill and all other charges incurred in transportation and delivery, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

Carrier's lien.

SEC. 26. That after goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods themselves to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be an order bill.

Bill for goods sold under carrier's lien.

SEC. 27. That an order bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

Negotiation by delivery.

SEC. 28. That an order bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill. Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorsement of such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

Negotiation by endorsement.

SEC. 29. That a bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby. A straight bill can not be negotiated free from existing equities, and the indorsement of such a bill gives the transferee no additional right.

Existing equities under straight bill.

SEC. 30. That an order bill may be negotiated by any person in possession of the same, however such possession may have been acquired, if by the terms of the bill the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

Bill negotiable by possessor.

SEC. 31. That a person to whom an order bill has been duly negotiated acquires thereby—

(a) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value; and

Title to goods

(b) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully as if the carrier had contracted directly with him.

SEC. 32. That a person to whom a bill has been transferred, but not negotiated, acquires thereby as against the transferor the title to the goods, subject to the terms of any agreement with the transferor. If the bill is a straight bill such person also acquires the right to notify the carrier of the transfer to him of such bill and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Transferee's title.

Prior to the notification of the carrier by the transferor or transferee of a straight bill the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

Notification to carrier.

Lawful notification.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time, with the exercise of reasonable diligence, to communicate with the agent or agents having actual possession or control of the goods.

Compelling indorsement.

SEC. 33. That where an order bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

Warranties.

SEC. 34. That a person who negotiates or transfers for value a bill by indorsement or delivery, unless a contrary intention appears, warrants—

- (a) That the bill is genuine;
- (b) That he has a legal right to transfer it;
- (c) That he has knowledge of no fact which would impair the validity or worth of the bill;
- (d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby.

Liability of indorser.

SEC. 35. That the indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

Pledgee's warranty.

SEC. 36. That a mortgagee or pledgee or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or warrant the genuineness of such bill or the quantity or quality of the goods therein described.

Validity of negotiation.

SEC. 37. That the validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession of the same by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated give value therefor in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress, loss, theft, or conversion.

Subsequent negotiation.

SEC. 38. That where a person, having sold, mortgaged, or pledged goods which are in a carrier's possession and for which an order bill has been issued, or having sold, mortgaged, or pledged the order bill representing such goods, continues in possession of the order bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

Seller's lien.
Stoppage in transit.

SEC. 39. That where an order bill has been issued for goods no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged

to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

SEC. 40. That, except as provided in section thirty-nine, nothing in this act shall limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this act, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

Rights of lien holder.

SEC. 41. That any person who, knowingly or with intent to defraud, falsely makes, alters, forges counterfeits, prints or photographs any bill of lading purporting to represent goods received for shipment among the several States or with foreign nations, or with like intent utters or publishes as true and genuine any such falsely altered, forged, counterfeited, falsely printed or photographed bill of lading, knowing it to be falsely altered, forged, counterfeited, falsely printed or photographed, or aids in making, altering, forging, counterfeiting, printing or photographing, or uttering or publishing the same, or issues or aids in issuing or procuring the issue of, or negotiates or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter, or who, with intent to defraud, violates, or fails to comply with, or aids in any violation of, or failure to comply with any provision of this act, shall be guilty of a misdemeanor, and, upon conviction, shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding \$5,000, or both.

Forging or counterfeiting bills.

Penalty.

SEC. 42. First. That in this act, unless the context of subject matter otherwise requires—

Definitions.

“Action” includes counterclaim, set-off, and suit in equity.

“Bill” means bill of lading governed by this act.

“Consignee” means the person named in the bill as the person to whom delivery of the goods is to be made.

“Consignor” means the person named in the bill as the person from whom the goods have been received for shipment.

“Goods” means merchandise or chattels in course of transportation or which have been or are about to be transported.

“Holder” of a bill means a person who has both actual possession of such bill and a right of property therein.

“Order” means an order by indorsement on the bill.

“Person” includes a corporation or partnership, or two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee and to take as pledgee.

“State” includes any Territory, District, insular possession, or isthmian possession.

SEC. 43. That the provisions of this act do not apply to bills made and delivered prior to the taking effect thereof.

Not retroactive.

SEC. 44. That the provisions and each part thereof and the sections and each part thereof of this act are independent and severable, and the declaring of any provision or part thereof, or provisions or part thereof, or section or part thereof, or sections or part thereof, unconstitutional shall not impair or render unconstitutional any other provision or part thereof or section or part thereof.

Sections severable.

SEC. 45. That this act shall take effect and be in force on and after the first day of January next after its passage.

Effective date.



TARIFF CIRCULAR NO. 18-A.

Contains revision of and cancels Tariff Circular 17-A and supplement No. 1. Also cancels special orders No. 4, No. 7, and No. 11, and special circulars (Bureau of Tariffs) No. 8 and No. 9.

INTERSTATE COMMERCE COMMISSION

Regulations

TO GOVERN THE

CONSTRUCTION AND FILING OF FREIGHT TARIFFS
AND CLASSIFICATION AND PASSENGER
FARE SCHEDULES

ADMINISTRATIVE RULINGS

REVISED BY ORDER OF COMMISSION

Approved February 13, 1911

Effective March 31, 1911

(Except as noted in individual items)

THE
LIBRARY OF THE
MUSEUM OF NATURAL HISTORY
AND
ZOOLOGY
OF THE
CITY OF LONDON

ANNUAL REPORT
OF THE
MUSEUM OF NATURAL HISTORY
AND
ZOOLOGY
OF THE
CITY OF LONDON
FOR THE YEAR
1891

By
THE
MUSEUM OF NATURAL HISTORY
AND
ZOOLOGY
OF THE
CITY OF LONDON

LONDON:
PRINTED BY
HARRISON AND SONS,
ST. MARTIN'S LANE.

1892

THE
MUSEUM OF NATURAL HISTORY
AND
ZOOLOGY
OF THE
CITY OF LONDON

By
THE
MUSEUM OF NATURAL HISTORY
AND
ZOOLOGY
OF THE
CITY OF LONDON

INTERSTATE COMMERCE COMMISSION TARIFF RULES

Freight Tariffs and Classifications

1. All tariffs must be printed on hard calendered paper of good quality from type of size not less than 6-point full face. Stereotype, planograph, or other printing-press process may be used. Alterations in writing or erasures must not be made in tariffs before filing. Reproductions by hectograph or similar process, type-written sheets, or proof sheets must not be used for posting or filing.

Tariffs must be printed.

All tariffs must be in book, sheet, or pamphlet form, and of size 8 by 11 inches. Loose-leaf plan may be used so that changes can be made by reprinting and inserting a single leaf. (See Rule 9 (e).)

Form and size of tariff.

2. (a) All tariff publications or supplements thereto must indicate increases thereby made in existing rates or charges, rules or regulations, or classifications by the use of black-faced type or by the use of a uniform symbol throughout the schedule. All tariff publications or supplements thereto which are filed with the Commission on or after May 1, 1911, must also indicate reductions thereby made in existing rates or charges, rules or regulations, or classifications by the use of italic type or by the use of a uniform symbol throughout the schedule. Clear explanation of the use of distinctive type or symbols must be made in the tariff.

Changes to be indicated in tariff or supplement.

(b) When a new tariff canceling a previous tariff omits points of origin or destination or rates which were contained in such previous tariff, the new tariff shall show, in the manner prescribed in paragraph (e) of Rule 8, where the rate or rates will thereafter be found, and if such omissions effect increases or decreases in charges that fact shall be shown by the use of proper symbols.

3. The title-page of every tariff shall show:

Title-page shall show:

(a) Name of issuing carrier, carriers or agent.

Name of carrier.

(b) I. C. C. number of tariff in bold type on upper right-hand corner, and immediately thereunder, in smaller type, the I. C. C. number or numbers of tariffs canceled thereby. If the number of canceled tariffs is so large as to render it impracticable to thus enter them on the title-page, they must be shown immediately following the table of contents, and specific reference to such list must be entered on title-page immediately under the I. C. C. number of the tariff. Serial numbers of carriers may, if desired, be entered below the upper marginal line of title-page. Separate serial I. C. C. numbers will be used for freight and passenger tariffs.

I. C. C. number and cancellations.

(c) Whether tariff is local, joint, proportional, or a combination of same, and whether class, commodity, or a combination of both.

Kind of tariff.

(d) The territory or points from and to which the tariff applies, briefly stated.

Territory.

(e) Reference by name and I. C. C. number to the classification and exception sheets governing the tariff. Following form will be used: "Governed, except as otherwise provided herein, by the classification,, I. C. C. No. ..., supplements thereto and reissues thereof; and by exceptions to said classification, I. C. C. No. supplements thereto and reissues thereof." A tariff is not governed by a classification or exceptions thereto except when and to the extent stated on the tariff.

Reference to governing classification and exception sheets.

(f) Date of issue and date effective. Any tariff may be changed upon statutory notice of thirty days, or, under special permission from the Commission, upon shorter notice. Therefore, a provision in a tariff that the same, or any part thereof, will expire upon a given date, is not a guaranty that the tariff, or such part of it, will remain effective until that date. The Commission considers such expiration

Dates.

Expiration notice.

notices undesirable, as many complications have arisen through their being overlooked. Such provision, if used, must be understood to mean that the tariff, or specified part of it, will expire upon the date named unless sooner canceled, changed, or extended in lawful way.³ On such tariffs the term "Expires—, unless sooner canceled, changed, or extended," must be used.

When issued by permission or order of Commission on less than statutory notice.

(g) On every tariff or supplement that is issued on less than thirty days' notice by permission or order or regulation of the Commission, notation that it is issued under special permission or order of the Interstate Commerce Commission, No. —, of [date] —, or by authority of Rule —, Tariff Circular 18-A, or by authority of decision of the Commission in case No. —. (See Rule 14.)

Notice of supplements.

(h) On upper left-hand corner of tariffs of less than 5 pages and on tariffs issued in loose-leaf form, the words: "No Supplement to this tariff will be issued except for the purpose of cancelling the tariff." On tariffs containing 5 and not more than 16 pages, inclusive: "Only one supplement to this tariff will be in effect at any time." On tariffs containing 17 and not more than 111 pages, inclusive: "Only two supplements to this tariff will be in effect at any time." On tariffs containing over 111 pages: "Only three supplements to this tariff will be in effect at any time."

On a tariff which provides for suspension and restoration of rail-and-water rates, as authorized by Rule 12, the following exception should be made in connection with the above notations: "except as provided for in rule — (or item —), page —, of this tariff."

Officer issuing.

(i) Name, title, and address of officer by whom tariff is issued.

Tariffs shall contain:

4. Tariffs in book or pamphlet form shall contain, in the order named:

Table of contents.

(a) Table of contents: A full and complete statement, in alphabetical order, of the exact location where information under general headings, by subjects, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that its title-page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

Participating carriers.

(b) Names of issuing carriers, including those for which joint agent issues under power of attorney, and names of carriers participating under concurrence, alphabetically arranged. If there be not more than ten participating carriers their names may be shown on the title-page of the tariff. The form and number of power of attorney or concurrence by which each carrier is made party to the tariff must be shown.

Show concurrence numbers.

(c) Alphabetically arranged and complete index of all commodities upon which commodity rates are named, preceded by a paragraph, viz.: "Following list enumerates only such articles as are given specific rates; articles not specified will take class rates." All of the items relating to different kinds or species of the same commodity will be grouped together. For example, all items of coal under "Coal," and descriptive word or words following, as "Coal," "Coal—Anthracite," "Coal—Bituminous," etc.

Index of commodities.

The index to a general commodity tariff or a combined class and commodity tariff shall also include in alphabetical order all articles upon which commodity rates are named in other tariffs applying from any point of origin to any point of destination named in the tariff, and with such entry shall be shown the number or numbers of tariffs in which such rates are found. For example, "Lime, I. C. C. No. 122," or "Staves, I. C. C. No. 1042." Carriers' tariff numbers may be also shown.

Include all articles upon which commodity rates are named in other tariffs.

Commodity item containing list of articles taking one rate need be indexed but once, provided reference is given to list of articles embraced.

A commodity item which refers to a list of articles taking one commodity rate need be indexed but once, provided reference is given to the item or the I. C. C. number of the issue that contains list of the articles embraced in the term. For example, "Agricultural Implements, as described in item — of this tariff," or "as

described in Western Classification, I. C. C. No. —," or "Packing-House Products, as described in ———— Tariff, I. C. C. No. —," When such specific reference to list of articles embraced in the term is given, the several articles so embraced need not be indexed separately.

A local tariff on a single commodity, or a few commodities, shall contain all of that carrier's commodity rates on such commodity or commodities applying from any point of origin to any point of destination named in the tariff, and in a joint commodity tariff shall contain all of the initial carrier's commodity rates on the same commodity or commodities applying from any point of origin to any point of destination named in the tariff via the route or routes authorized by the tariff. If there be not more than ten such commodities they may be named on the title-page of the tariff.

Tariff must contain all rates on commodities included in tariff and between same points.

If all the commodity rates to each destination in the tariff are arranged alphabetically by commodities, and plain reference thereto is given in table of contents, further or other index of commodities may be omitted from that tariff, provided that, if the issuing carrier, or a participating carrier, has in other tariff or tariffs commodity rates applying from any point of origin to any point of destination named in the tariff, a complete list in alphabetical order by commodities of such other tariffs, together with description of character of traffic, territory or points of origin and of destination, and the I. C. C. numbers of tariffs containing such commodity rates shall be shown in the first part of the tariff and shall be specifically referred to in the table of contents.

Alphabetical arrangement of commodity rates to each destination.

(d) An alphabetical index of points from which rates apply, and an alphabetical index of points to which rates apply, together with names of States in which located. When practicable, the index numbers of points and pages upon which rates will be found or item numbers in which rates from or to such points appear, should be shown. If there be not more than 12 points of origin or 12 points of destination, the name of each may, if practicable, be specified on title-page of tariff.

Index of stations.

If a tariff is arranged by groups of origin or destination, by bases, or by basis numbers, the indices must show for each point the proper group, basis, or basis number.

If points of origin or of destination are shown throughout the rate tables in continuous alphabetical order, or are shown alphabetically by State and such States are alphabetically arranged, or are shown by groups alphabetically arranged, no index of points of origin or destination will be required. But when such alphabetical arrangement in rate tables is used the table of contents shall indicate the pages upon which points are so shown, and when arranged by State or groups shall give specific reference to the pages on which rates to or from points in each State or group will be found.

Alphabetical arrangement of points in rate tables.

If a tariff is constructed so as to state rates by groups or bases, and also states specific rates to or from individual points, it shall contain an alphabetical index of such individual points and also alphabetical lists of the points in such groups, or reference to the I. C. C. number of issue which contains lists of such group points.

Geographical description of application of tariff may be used only when the tariff applies to or from all points in one or more States or Territories, or when it applies to or from all points in a State or Territory except those specified. But such list of exceptions for a single State or Territory may not exceed one-third of the number of points in that State or Territory to or from which (as the case may be) the tariff will apply. For example, a tariff may state that it applies from all points in New York, Pennsylvania, and New Jersey, and from all points in Delaware,

Geographical description.

except [here give alphabetical list of excepted points], and from the following points in Ohio [here give alphabetical list of Ohio points].

Territorial or group descriptions.

Traffic territorial or group descriptions may be used to designate points to or from which rates named in the tariff apply, provided a complete list of such points arranged by traffic territories or groups is printed in the tariff or specific reference is given to the I. C. C. number of the issue that contains such list. In this list the points in each traffic territorial or group description shall be arranged alphabetically, and the name or names of roads upon which points are located must be shown; or all of the points in traffic territories or groups named in the tariff may be included in one alphabetical index, provided (1) that points of origin and points of destination are shown separately, alphabetically; (2) that the name or names of roads upon which points are located and the traffic territorial or group description in which they belong are shown opposite the several points.

Reference marks and abbreviations.

(e) Explanation of reference marks and technical abbreviations used in the tariff, except that a special rule or provision applying to a particular rate will be shown in connection with and on same page with such rate.

List of exceptions.

(f) List of exceptions, if any, to the classification governing the tariff which are not contained in exception sheets referred to on title-page.

Explanatory statements.

(g) Such explanatory statements in clear and explicit terms regarding the rates and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

Rules governing the tariff.

(h) Rules and regulations which govern the tariff, the title of each rule or regulation to be shown in **BOLD TYPE**. Under this head all of the rules, regulations or conditions which in any way affect the rates named in the tariff shall be entered, except that a special rule applying to a particular rate shall be shown in connection with and on the same page with such rate.

No rule shall authorize substituting rate found in any other tariff.

No rule or regulation shall be included which in any way or in any terms authorizes substituting for any rate named in the tariff a rate found in any other tariff or made up on any combination or plan other than that clearly stated in specific terms in the tariff of which the rule or regulation is a part.

Rule for explosives.

Tariffs which contain rates for the transportation of explosives must also contain notice that such rates are applicable in connection and in compliance with the regulations governing the transportation of explosives fixed by the Interstate Commerce Commission. If tariff is governed by classification, it will be sufficient to include this notice in the classification referred to as governing the tariff. (See Rule 65.)

Tariff rules and regulations filed and posted may be referred to in other schedules governed thereby.

A carrier or an agent may publish, under I. C. C. number, post, and file a tariff publication containing the rules and regulations which are to govern certain rate schedules, and such publication may be made a part of such rate schedules by the specific reference "Governed by rules and regulations shown in _____ I. C. C. No. —." When a tariff makes reference to another tariff the I. C. C. number of such other tariff must be given, and when such tariff referred to is the publication of another carrier or an agent, the initials of such other carrier or the name of such agent, respectively, must be shown in connection with the I. C. C. number.

Rate tables.

A rate schedule may in like manner refer to another schedule for the governing rules and regulations.

A schedule or a publication so referred to must be on file with the Commission and be posted at every place where a schedule that refers to it is posted.

(i) An explicit statement of the rates, in cents or in dollars and cents, per 100 pounds, per barrel or other package, per ton or per car, together with the names or designation of the places from and to which they apply, all arranged in a simple and systematic manner. Minimum carload weights must be specifically stated.

Tariffs containing rates per ton must specify what constitutes a ton thereunder. A ton of 2,000 pounds must be specified as "net ton" or "ton of 2,000 pounds." A ton of 2,240 pounds must be specified as "gross ton," "long ton," or "ton of 2,240 pounds." Complicated or ambiguous plans or terms must be avoided.

When a classification or exception sheet contains rules under which numerous commodities are classified as taking a percentage of a class rate (for example, rules similar to Rules 25 and 26 of the Official Classification), class-rate tariffs governed by such classification or exception sheet shall show specifically the rates applicable under such rules just as if those rules were additional numbered or lettered classes.

(j) The different routes via which tariff applies may be shown, together with appropriate reference to application of rates. When a tariff specifies routing the rates may not be applied via routes not specified. A tariff may show the routing ordinarily and customarily to be used and may provide that, if from any cause shipments are sent via other junction points but over the lines of carriers parties to the tariff, the rates will apply.

Routes.

If a tariff contains no routing directions the joint rates shown therein are applicable between the points specified via the lines of any and all carriers that are parties to the tariff; and shipper must not be required to pay higher charges than those stated in the tariff because the carriers have not agreed divisions of the rates via the junction through which the shipment moves. If agent of carrier bills or sends shipment via a route or junction point that is covered by the tariff but via which no division of the rate applies, it is for the carriers to agree between themselves upon the division of the rate, and the intermediate or delivering carriers may demand from the carrier whose agent so mis-sends shipment their full local rates for the services which they perform. (This must not be construed as conflicting with routing and misrouting rulings published in Conference Rulings Bulletins.)

5. (a) The practice on part of carriers of accepting and transporting through shipments, as to which no joint rate applies, upon rates made up by combination of the rates of the several carriers participating in the movement, and of collecting, as delivering carriers, the aggregate charges of the several carriers upon such shipments, and of accounting to such carriers for their several portions of such charges, is practically universal. That custom has the same binding effect as a joint rate, both as between carriers themselves and as between carriers and shippers. Therefore carriers may construct rates for through shipments to and from points to and from which there is no applicable published joint rate, by using lawfully published and filed bases, locals or proportionals, in connection with other lawfully published and filed tariffs. In making up a combination rate all limitations which a tariff places upon the use of a basing, proportional, or arbitrary rate must be fully observed.

Rates on through shipment when no joint rates apply.

(b) Tariffs containing basing or proportional rates must specify clearly the extent and manner of their use, and tariffs that are especially intended for use in connection with published basing rates must show the I. C. C. numbers of tariffs in which bases can be found.

Basing or proportional tariffs must be specific.

A carrier may provide in its tariffs that, in the absence of a specific rate from point of origin to destination of a through shipment, combination rate to or via certain points will be made upon specified basing point or points, or by using certain specified tariffs or rates, and the combination rate so specified will be the lawful rate for that shipment.

May specify basing points or factors for combination rate.

A carrier may incorporate in a tariff the following rule:

Rates to destinations or from points of origin not shown on this tariff will, in the absence of specific rate from point of origin to destination, be made by adding to the rates shown in this tariff the rates shown in other tariffs lawfully on file with

the Interstate Commerce Commission, but if the rate so made exceeds the rate to or from a point beyond on the same direct line or route as shown in this tariff, the latter rate will apply.

Note.—If a rate applies to or from a group or zone or blanket of points of origin or of destination, such rate will be considered as "named" or "shown" from each point within such properly described group, zone, or blanket.

When desired the following may be added:

Rates so made will apply via all routes authorized under this tariff to or from contiguous points of origin or of destination.

If shipment moves to or from a point of origin or of destination or via a junction point with connecting or branch line at which interchange is made directly intermediate to the base point upon which the lowest combination makes, such combination must be applied; and it is not necessary to haul the shipment to such base point and back again to or through point of origin or destination or such junction point.

Note.—Neither this rule nor any portion thereof is to be construed as conferring any authority to depart from the prohibitions of the fourth section of the Act against higher charges for shorter distances, and higher charges as a through route than the aggregate of the intermediate rates, or as modifying or authorizing departure from the Commission's ruling that a specific class or commodity rate between two points is the lawful rate between those points regardless of any combination rate. It must also be understood that in a case where the lowest combination of rates makes on a base point as to which the point of origin or of destination is directly intermediate, a specific rate to or from such point that is higher than such combination is included in the Commission's ruling that a through rate that is higher than the combination of intermediate rates between the same points is *prima facie* unreasonable. It must be further understood that in applying the lowest combination when it makes upon a base point to which the point of origin or of destination is directly intermediate, the Commission expresses no opinion as to the reasonableness of a rate so constructed.

Lowest combination
lawful rate.

(c) If no specific rate from point of origin to destination of a through shipment is provided, and no specific manner of constructing combination rate for it is prescribed, the lowest combination of rates applicable via the route over which the shipment moves is the lawful rate for that shipment.

Combination rate a
unit as of date of
original shipment.

Such combination through rate must be treated as a unit from the date of original shipment to the date of its arrival at destination, and the rate applied must be the combination of the rates which exists upon the date of original shipment. All of the conditions, regulations, and privileges obtaining as to any factor in such combination rate for through shipment at the time of original shipment upon such combination through rate must be adhered to and can not be varied as to that shipment during the period of transportation of such shipment to its final destination. A local or proportional rate "in" can not be absorbed, diminished, or affected by any "out" rate not in effect at the time when the traffic moved upon such local or proportional rate.

Limiting use of terms
"common points,"
"grain products," etc.

6. (a) The terms "common points," "Southeastern territory," or similar terms shall not be used in any tariff for the purpose of indicating the points from or to which rates named therein apply, unless a full list of such points is printed in the tariff or specific reference is given to the I. C. C. number of the issue that contains such list.

The terms "grain products," "forest products," "petroleum and its products," "cottonseed products," or similar terms must not be used in any tariff for the purpose of indicating the articles to which the rates apply, unless a full list of articles intended to be included in and covered by such terms is printed in the tariff or specific reference is given to I. C. C. number of issue that contains such list.

Commodity rates
must be specific.

(b) Commodity rates must be specific and must not be applied to analogous articles.

Commodity rate the
only rate that can law-
fully be used.

7. (a) In every instance where a commodity rate is named in a tariff upon a commodity and between specified points such commodity rate is the lawful rate and

the only rate that may be used with relation to that traffic between those points, even though a class rate or some combination may make lower. The naming of a commodity rate on any article or character of traffic takes such article or traffic out of the classification and out of the class rates between the points to which such commodity rate applies.

Class rates or commodity rates may be made for specified mixed shipments and will be the lawful rates for such mixtures, even though certain parts of the mixtures are covered by class or commodity rates when shipped separately.

(b) If the alternative use of class or commodity rates is necessary or desired in any instance it may be provided by including in different sections of one and the same tariff such class and commodity rates, and by including in each section the specific rule "If the rates in Section — of this tariff make a lower charge on any shipment than the rates in Section — of this tariff, the rates in Section — will be applied." No rates may be so included in a tariff for alternative use excepting such as the carrier or agent who issues the tariff is lawfully authorized to publish and change; that is, rates issued by another carrier or agency may not be reproduced for such alternative use.

(c) Each tariff that contains class rates and that is not constructed in sections for alternative use of rates, as provided in paragraph (b) of this Rule, and that is issued or supplemented hereafter, shall also contain a rule as follows:

Whenever a carload (or a less-than-carload) commodity rate is established it removes the application of the class rates to or from the same points on that commodity in carload quantities (or less-than-carload quantities, as the case may be).

(d) Each tariff that contains class and commodity rates and that is constructed in sections for alternative use of rates as provided in paragraph (b) of this Rule, and that is issued or supplemented hereafter, shall also contain a rule as follows:

Whenever a carload (or a less-than-carload) commodity rate is established it removes the application of the class rates to or from the same points on that commodity in carload quantities (or less-than-carload quantities, as the case may be), except when and in so far as alternative use of class and commodity rates that are contained in separate sections of this tariff is specifically authorized herein.

(e) Each classification that is issued or supplemented hereafter shall contain a rule as follows:

Whenever a carload (or a less-than-carload) commodity rate is established it removes the application of the class rates to or from the same points on that commodity in carload quantities (or less-than-carload quantities, as the case may be), except when and in so far as alternative use of class and commodity rates is specifically provided for by including in different sections of one and the same tariff such class and commodity rates, and by including in each section of such tariff the specific rule, "If the rates in Section — of this tariff make a lower charge on any shipment than the rates in Section — of this tariff, the rates in Section — will be applied."

8. (a) If a tariff or supplement to a tariff is issued which conflicts with a part of another tariff or supplement to the same or another tariff which is in force at the time, and which is not thereby canceled in full, it shall specifically state the portion of such other tariff or such other supplement which is thereby canceled, and such other tariff shall at the same time be correspondingly amended, effective on the same date, in the regular way; that is, by reissue if tariff is of less than five pages, and by reissue or supplement if tariff is of more than five pages. Such reissue or supplement must state where rates will thereafter be found and must be filed at the same time and in connection with the tariff which contains the new rates. It will not be necessary to give on commodity tariff or supplement reference

Rates for mixed shipments.

Alternative rates in sectional tariff.

May not reproduce other carrier's or agency's rates for alternative use.

Rule for tariff which does not provide alternative use of rates.

Rule for tariff which does provide for alternative use of rates.

Rule in classification.

Tariff or supplement to tariff shall specify cancellations.

to class-rate tariffs that may be affected, nor to give on class-rate tariffs or supplements reference to commodity tariffs, except as provided in Rule 56.

Cancellation must be by authorized agent or by carrier that issued the tariff canceled.

(b) An agent who acts under power of attorney is fully authorized to act for the carriers that have named him their agent and attorney, and, therefore, it is permissible for him to cancel by his tariffs issues of such principals.

A carrier may not by its individual tariff cancel, amend, or modify a tariff filed by a duly authorized agent, except when corresponding amendment to such agent's tariff is filed at the same time and as per paragraph (a) of this Rule.

Concurrence does not confer authority to cancel.

(c) A concurrence does not confer authority upon either carrier or agent to cancel tariffs of concurring carrier, and, therefore, tariffs issued under concurrences may not assume to cancel, or carry notation of cancellation of tariffs of and issued by concurring carriers. Such cancellations must be made by the carrier that issued the tariff that is to be canceled.

Cancellation notice must be by supplement.

(d) If a tariff is canceled with the purpose of canceling entirely the rates named therein, or when, through error or omission, a later issue failed to cancel the previous issue and a tariff is canceled for the purpose of perfecting the records, the cancellation notice must not be given a new I. C. C. number, but must be issued as a supplement to the tariff which it cancels, even though it be a tariff of 4 pages or less, and even though the tariff may at the time have the full number of supplements permitted by paragraph (e) of Rule 9.

Cancellation notice shall specify where rates will thereafter be found.

(e) When a tariff or a rate is canceled, the cancellation notice must show where rates or rate will thereafter be found or what rates or rate will thereafter apply. For example: "Rate in —, I. C. C. No. —, will apply," or "Class rates will apply," or "Combination rate will apply," or "No rates in effect." (See Rule 2 (b).)

If a tariff is canceled with the purpose of applying in lieu thereof the rates shown in some other tariff, the cancellation notice shall make specific reference to the I. C. C. number of tariff in which the rates will thereafter be found. Cancellation of a tariff also cancels supplements to such tariff, if any in effect. If a tariff is canceled by the issuance of a similar tariff to take its place, cancellation notice must not be given by supplement, but by notice printed in new tariff, as provided in paragraph (b) of Rule 3.

Cancellation by item numbers.

(f) When the items in a tariff or a supplement are designated by item numbers the cancellation of an item must be under the same item number; for example, item 41-A cancels item 41. If a canceled item or any part thereof is taken up and thereafter carried in another item of different number, the cancellation must be carried under the original item number and must show in what item or items the effective rates are to be found, and the cancellation of the item in the original tariff or supplement must be brought forward in successive supplements as a reissued item as long as the cancellation is in force.

Amendments and supplements.

9. (a) A change in or addition to a tariff shall be known as an amendment, and, excepting amendments to tariffs issued in loose-leaf form, shall be printed in a supplement to the tariff and shall refer to the page or pages or item or items of the tariff, or of previous supplement, which it amends.

Amended item must be shown in full.

An amended item must always be printed in a supplement in its entirety as amended, and the items in each supplement shall be arranged in the same general order as the tariff which it amends.

Participating carriers; how shown in supplement.

(b) A supplement shall contain either a list of carriers participating therein, or shall state that the list of participating carriers is "as shown in tariff," or "as shown in tariff, except [here show alphabetically all additions to and eliminations from the original list that are effected by the supplement, or that have been effected by previous supplements]".

(c) Supplements to a tariff shall be numbered consecutively as supplements to that tariff and must not be given separate or new I. C. C. numbers. Each supplement shall specify the supplement or supplements which it cancels, and shall also show in its title-page what supplements contain all changes from the original tariff that are in effect. For example: "Supplement No.—to I. C. C. No.—" "Cancels Supplements Nos.—and—" "Supplements Nos.—and—contain all changes from the original tariff that are effective on the date hereof." The term "cancels conflicting portions" must not be used.

Supplement number
and cancellations.

(d) A tariff which contains reissued items brought forward from a previous issue which has not been in effect thirty days, or a supplement which brings forward reissued items without change from a former supplement or tariff, must bear the notation: "Effective — except as noted in individual items." Example: "Issued —, 19—, Effective —, 19—, except as noted in individual items." Reissued items brought forward without change must show in conspicuous form and convenient manner the following: "Reissue (in **BLACK-FACE TYPE**); effective [date which item became effective] in I. C. C. No. —" or "in Supplement No. — to I. C. C. No. —." When the reissued item became effective in a former supplement to the same tariff I. C. C. number of the tariff may be omitted, but the supplement number must be given.

Show effective date
of reissued items and
I. C. C. reference.

Items reissued from publications that were on file prior to May 1, 1907, may show last date and reference prior to May 1, 1907.

(e) Except as authorized in Rules 8 (d), 9 (i), 9 (k), 11 and 12 (d), tariff of less than 5 pages may have no supplement, change therein may be made only by reissue; not more than one supplement may be in effect at any time to a tariff containing 5 and not more than 16 pages; not more than two supplements may be in effect at any time to a tariff containing 17 and not more than 111 pages; not more than three supplements may be in effect at any time to a tariff containing more than 111 pages, and such third supplement may be issued only when the smaller of the two effective supplements to that tariff contains not less than 10 per centum of the number of pages in the tariff.

Numbers of supple-
ments effective at any
time.

Tariffs containing 5 or more pages, including title-pages and indexes, may be supplemented to the following extent:

Amount of matter
supplement may
contain.

NUMBER OF PAGES IN TARIFF (including title-page and index)	SUPPLEMENT MAY CONTAIN (including title-page and index)
5 and not more than 16 pages.....	Not more than 4 pages.
17 and not more than 32 pages.....	Not more than 6 pages.
33 or more pages.....	Not more than 25 per centum of the number of pages in tariff.

Note.—The changes made as to the number of supplements to a tariff that may be issued or that may be in effect at any time are applicable only to tariffs that are issued after May 12, 1909, and that bear on their title-pages notations in harmony with paragraph (e) of this Rule and in accord with paragraph (h) of Rule 3. As to tariffs heretofore issued, subsequently to May 1, 1907, the notations which they bear as to issuance of supplements and the number of supplements that may be in effect at any time must be observed until such tariffs are superseded or reissued.

Tariffs of less than five pages that were filed prior to May 1, 1907, may not be further supplemented after July 1, 1909. Tariffs of five or more pages that were filed prior to May 1, 1907, may not be further supplemented after October 1, 1909, except by bringing, and thereafter maintaining, the number of effective supplements within the provisions of paragraph (e) of this Rule.

Amendments to loose-leaf tariffs; No supplement.

All changes in and additions to tariffs issued in loose-leaf form must be made by reprinting both pages of the leaf upon which change is made. Changes or additions made must be indicated as provided in Rule 2 and when no change or addition is made in one of the pages reprinted it must bear notation "No change in this page." Such pages must not be given supplement numbers, but must be designated "First revised page —," "Second revised page —," etc., must show the I. C. C. number of the tariff, the issued and effective dates, and the name, title, and address of officer by whom issued.

Supplements to periodical tariffs.

(f) If a tariff provides that it will be reissued periodically at specified times, not more than six months apart, and the life of the tariff does not exceed six months, and such provision is strictly observed, supplements to such tariff may contain all amendments thereto between such specified dates for reissue, without limit as to size. Such tariff must bear on upper left-hand corner of title-page notation: "This tariff will be reissued effective on or before —, 19—."

Index to supplement.

(g) A supplement of five or more pages must have an index of the matter which it contains, and a supplement of more than 23 pages must also contain a table of contents.

Supplement to tariff that is filed and not yet effective.

(h) If a tariff is filed on statutory notice canceling another tariff and after such filing and prior to the effective date of such new tariff a supplement to the tariff to be so canceled should be lawfully issued, rates in that supplement could not continue in effect for the thirty days required by law because the cancellation of the tariff also cancels supplements to it. In such a case supplements containing changes not included in the tariff that is to become effective may be issued as supplements both to the tariff in effect and to the tariff on file that will effect such cancellation, and be given both I. C. C. numbers. In other words, such issue must be a supplement to each of the tariffs, and copies must be filed accordingly. A supplement issued under this Rule containing reissued items shall note in connection with each of such items, in addition to the date effective as required by the Rule, that the reissued items expire on the date at which the new tariff becomes effective, and that the new tariff will apply in lieu thereof; and such reissued items must not be brought forward in subsequent supplements to the new tariff. Such supplement may not contain any changes except those lawfully made by supplement to the tariff which is to be canceled by the tariff that has been filed and that is also so supplemented; and no other kind of supplement to a tariff that is on file and not yet effective may be made effective within thirty days from the effective date of the tariff without special permission.

The provisions of paragraph (e) of this Rule as to the number of supplements to a tariff that may be in effect at any time, and the volume of supplemental matter they may contain must be observed in connection with supplement issued under this paragraph.

Withdrawal and adoption of tariffs when one carrier is absorbed by another carrier.

(i) In case of change of ownership or control of a carrier, or when a road or a part of a road is transferred from the operating control of one company to that of another, or when its name is changed, the carrier which will thereafter operate the road, if it intends to use the tariff publications and rates of the former operating company, shall issue, file, and post, with I. C. C. number, an adoption notice substantially as follows:

Withdrawal and adoption of tariffs when a road or portion thereof is transferred to another company, or its name is changed.

The [name of carrier] hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, filed with the Interstate Commerce Commission by the [name of old carrier] prior to [date] the beginning of its possession.

By this tariff it also adopts and ratifies all supplements or amendments to any of the above tariffs, etc., which have been heretofore filed with said Commission.

This notice may be made effective and be filed on immediate notice.

Similar adoption notice must be filed by a receiver when assuming possession and control of a carrier's lines.

Concurrences and powers of attorney so adopted by a carrier must, as soon as possible, be replaced and superseded by new concurrences and powers of attorney issued by and in the name of the new carrier or company, and in each instance canceling the concurrence or power of attorney superseded.

(j) A carrier whose line is absorbed, taken over, or purchased by another carrier shall unite with that other carrier in the publication and filing of common supplements to the tariffs on file with the Commission, on the one hand withdrawing, and on the other hand accepting and establishing such tariffs and all effective supplements thereto. Such common supplements shall be executed jointly by the traffic officers of both the old and the new carriers, shall be numbered consecutively as supplements to the tariffs (even if of less than five pages) to which they are directed, and may be made effective on immediate notice to the public and the Commission by noting thereon reference to this Rule. Such common supplements will not be counted against the number of supplements permitted to such tariff under paragraph (e) of Rule 9. Amendments to such tariffs must thereafter be filed in consecutively numbered supplements thereto until the tariffs are reissued. New tariffs reissuing or superseding these shall be numbered in the I. C. C. series of the new carrier.

Adoption of tariffs issued by other carriers or joint agents, and of concurrences, power of attorney, etc., filed by old carrier.

Adoption notice filed by receiver.

The carrier surrendering control of the property has no lawful right to abandon its tariffs except on lawful notice, and when it surrenders control of the property it surrenders all right to publish rates applicable thereto except under proper authority from the carrier or company to whose control the property passes. The public has a right to available and lawfully applicable rates over that property.

Concurrences and powers of attorney of old carrier must be replaced by those of new carrier.

(k) When the Commission, under authority of section 15 of the Act to regulate commerce, as amended, suspends the operation and defers the use of a tariff or classification, rate, charge, regulation, or practice, the following course shall be pursued by carriers:

Suspension of tariff publications containing increased rates.

Upon receipt of order of suspension of any publication in its entirety the carrier or agent publishing and filing such schedule shall immediately file with the Commission a supplement stating that such schedule is under suspension and may not be used until further and proper notice, or until such specified date as the suspension order of the Commission may name, and that rates theretofore in effect and which were to be changed by the suspended publication will remain in effect. Such supplement shall state by I. C. C. number or numbers the tariff or tariffs in which rates, classifications, charges, or regulations so restored will be found.

Upon receipt of order of suspension of parts of a publication which, except as to such parts, is allowed to become effective, the carrier or agent publishing and filing such schedule shall immediately file with the Commission a supplement containing a copy of the Commission's order of suspension and stating that the part or parts of such schedule specified in the order are under suspension and may not be applied or charged until further notice, or until such specified date as the suspension order of the Commission may name. Such supplement shall also contain in reissued items the rates, classifications, charges, or regulations applicable during the period of suspension or shall give specific reference, by I. C. C. number or numbers, to the tariff or tariffs or supplements thereto, in which they will be found.

The title-page of every suspension supplement issued under authority of this Rule must bear date of issue, but no effective date, inasmuch as the suspension is effective from the date of filing and serving the Commission's suspension order.

When Commission's order of suspension is vacated.

When the Commission vacates an order of suspension made by it under authority of section 15 of the Act, as amended, the carrier or agent who published and filed such suspended tariff or supplement shall file immediately with the Commission a supplement stating the date upon which, under authority of the vacating order, the rate, classification, charge, regulation, or practice becomes effective. Such supplement may not be given a retroactive effective date.

Notation on supplement.

Every suspension or vacating supplement issued under authority of this Rule must bear on title-page the following notation:

Issued under authority of Rule 9 (k) Tariff Circular 18-A and in compliance with Investigation and Suspension Order No. — of the Interstate Commerce Commission, of [date] 19—.

Such supplements will not be counted against the number of supplements permitted to such tariff under paragraph (e) of Rule 9.

Every supplement issued under this Rule must be forthwith posted in every depot, station, office, or other place where the schedule affected by the order of suspension or vacation is posted, and should be given the same general distribution.

Waiver of supplement rule when tariff is suspended in its entirety.

As an assistance in taking care of the ordinary changes in rates which may be necessary during the period of suspension of an entire tariff or supplement, or any portion thereof, the tariff remaining in effect as a result of such suspension may be further amended without regard to the Commission's Rule as to the volume of supplemental matter which the effective supplements in the aggregate may contain, but the Commission's Rule prohibiting the supplementing of tariffs of less than five pages must be observed. Desired changes in tariffs of less than five pages must be made by reissue. If the suspended tariff subsequently becomes effective, such tariff as may be reissued during the period of suspension must be canceled in the regular way.

A new or changed rate, rule or regulation made effective during the period of suspension shall remain in force for the statutory period of 30 days.

No change may be made in suspended publication.

No change may be made in a suspended item or items, nor in a tariff or supplement which has been suspended in its entirety, except by special permission of the Commission.

Waiver of Rule 9 (f) when tariff is suspended.

When a six months' tariff or a supplement to a six months' tariff, or any portion thereof, is suspended by the Commission, the previous tariff and effective supplements will remain in force until lawfully changed or reissued, and the fixed period for the reissue of such six months' tariff may be deferred for the period of suspension of the tariff or supplements thereto.

The title-page of the six months' tariffs referred to above should be corrected by supplement to announce that the tariff will not be reissued prior to [date to which suspended], 19—.

When the Commission suspends portions of a supplement to a tariff, such supplement shall be continued in force throughout the period of suspension and may not be canceled by a subsequent supplement or by a reissue of the tariff pending decision of the Commission in the case, except by special permission of the Commission. However, any items in such supplement, other than the suspended items, which it is desired to reissue or amend may be specifically reissued or canceled by corresponding items in a subsequent supplement. Such supplement containing suspended items will not be counted against the number of supplements permitted to such tariff under paragraph (e) of Rule 9, provided all

items in such supplement, except the suspended portions thereof, are reissued in or canceled by the subsequent supplement.

Not infrequently, prior to the service of the Commission's suspension order, a carrier or its agent files a later supplement which contains in reissued items the portions of the previous supplement which are by such order suspended and also provides for the cancellation of such previous supplement. In such instances the supplement which the carrier is required to file giving public notice of such suspension shall, in addition to containing a copy of the Commission's order of suspension, also note specifically the cancellation from the later supplement of the reissue of such suspended portions, shall provide by amendment to the title-page of such later supplement that it cancels only such portions of the previous supplement as are not suspended, and shall also contain in reissued items the rates, classifications, charges, or regulations applicable during the period of suspension, or shall give specific reference, by I. C. C. number or numbers, to the tariff or tariffs, or supplements thereto, in which they will be found.

(m) When the Commission, under authority of section 15 of the Act to regulate commerce, as amended, suspends the operation and defers the use of a schedule which contains both increases and reductions in rates, charges, classifications, or regulations, such reduced rates, charges, classifications, or regulations may be re-established on one day's notice to the Commission and the public, prior to and effective upon the date the new schedule was intended to take effect, by the publication and filing of a supplement to the tariff continued in force by reason of such suspension, or, if such tariff is of less than five pages, by the publication and filing of a new tariff, making proper cancellation of the restored tariff. A supplement or tariff issued under authority of this Rule shall bear upon its title-page the following notation:

Authority to make effective reduced items appearing in suspended schedules.

Issued by authority of Rule 9 (m), Interstate Commerce Commission Tariff Circular 18-A.

10. (a) Each carrier shall publish, with proper I. C. C. numbers, post, and file separate tariffs which shall contain in clear, plain, and specific form and terms all the terminal charges and all allowances, such as arbitraries, switching, icing, storage, elevation, diversion, reconsignment, transit, privileges, and car service, together with all other privileges, charges, and rules, which in any way increase or decrease the amount to be paid on any shipment as stated in the tariff which contains the rate applicable to such shipment, or which increase or decrease the value of the service to the shipper. Such tariffs must stipulate clearly the extent of such privileges and the charges connected therewith, and shall also state whether or not the rate published by the initial carrier from the point of origin to ultimate destination will apply. If the through rate does apply it must be as of the date of shipment from point of origin.

Tariffs showing terminal charges, diversion, reconsignment, transit, privileges, etc.

If such privilege is granted or charge is made in connection with the rate under which the shipment moves from point of origin, the initial carrier's tariff which contains such rate must also show the privilege or the charge or must state that shipments thereunder are entitled to such privileges and subject to such charges according to the tariffs of the carriers granting the privileges or performing the services, as "lawfully on file with the Interstate Commerce Commission."

(b) If a joint rate applies to or from a point on a terminal or switching road, and such terminal or switching road receives a division of said rate which is not absorbed by a connecting carrier, the terminal or switching road must publish, post, and file, or concur in and post, the tariff containing the joint rate.

Joint rate with switching road.

Switching road must
file its charges.

(c) A switching or terminal road, even though its lines be purely intrastate, must publish, post, and file in accordance with the law and the Commission's regulations, tariff or tariffs containing all its charges upon or for movements of interstate shipments; and this must be done whether or not any part or all of such terminal or switching road's charges on such shipments are paid or absorbed by connecting carriers.

Switching road's
charges added to rate.

(d) If a switching or terminal road's charges are to be added to the tariff charges of a connecting carrier, the tariff of such connecting carrier quoting such rates to or from the point at which such terminal or switching road is located must clearly state that shipments thereunder are subject to additional charges for terminal service in accordance with the current tariffs of terminal or switching road as same are on file with the Interstate Commerce Commission.

Switching road's
charges absorbed.

(e) If part or all of the charges of a terminal or switching road are to be absorbed by a connecting road, the tariff of such connecting road must specify that its rate includes originating or delivery services by the terminal or switching road, and that the connecting road will absorb the charges of such terminal or switching road in a specified sum or as per the current tariffs of the terminal or switching road [naming it] as on file with the Interstate Commerce Commission.

Connecting carrier's
switching charges ab-
sorbed.

(f) When connecting carriers other than terminal or switching roads switch for each other and absorb part or all of each other's charges, their switching charges must be shown in lawfully filed and posted tariffs, and their tariffs must also state the circumstances under which and the instances in which they will absorb other carrier's switching charges, and must specify that such absorption will be in a stated sum per 100 pounds, per ton or per car, or as per tariffs on file with the Interstate Commerce Commission.

Distance tariff may
be used when no other
rates provided.

(g) It is permissible for a carrier, or for two or more carriers, to issue a tariff containing distance or mileage class rates, commodity rates, or both, for use in determining rates on its or their own lines, but in such cases the distance or mileage class rates may be used only when no other class rates are provided, and the distance or mileage commodity rates may be used only when no other commodity rates are provided.

Notation on distance
class rate tariff.

Each tariff that contains distance or mileage class rates only must bear on its title-page the following rule:

Class rates shown herein may be used only when no specific class rates have been provided. When governed by classification which also contains distance or mileage class rates they will take precedence over the distance or mileage class rates in such classification. They may not be used either by themselves or in combination in preference to any specific class rate.

Notation on distance
commodity rate tariff.

Each tariff that contains distance or mileage commodity rates only must bear on its title-page the following rule:

Commodity rates shown herein may be used only when no specific commodity rates have been provided. When governed by classification which also contains distance or mileage commodity rates they will take precedence over the distance or mileage commodity rates in such classification. They may not be used either by themselves or in combination in preference to any specific commodity rate.

Notation on distance
tariff containing both
class and commodity
rates.

Each tariff that contains only distance or mileage class and commodity rates must bear on its title-page the following rule:

Class rates shown herein may be used only when no specific class rates have been provided. Commodity rates shown herein may be used only when no specific commodity rates have been provided. When governed by classification which also contains distance or mileage rates they will take precedence over the distance or mileage rates in such classification. These class rates may not be used either by themselves or in combination in preference to any specific class rate,

nor may these commodity rates be used either by themselves or in combination in preference to any specific commodity rate.

A distance tariff may be included in a tariff of specific rates, together with the following rule: "If the use of the distance tariff on page — of this tariff makes a lower charge on any shipment than the specific rate shown in this tariff such lower charge will apply."

(h) Every carrier that uses a distance tariff, which is or may be used in connection with rates on interstate shipments, must incorporate therein an official list of all the points in connection with which the tariff may apply, showing in proper arrangement the distances between them; or must give therein reference by I. C. C. number to the issue that contains such list.

Official list of points and distances.

(i) A carrier may issue a tariff publication under I. C. C. number containing an official list of its points and may show therein distances, prepay points, billing instructions to points not on line of road, etc. If such publication contains no rates and no rules or regulations that of themselves or in connection with a tariff which refers to it affect the charges on any shipment, supplements to and reissues of it may be made effective on one day's notice to the public and to the Commission. Each such supplement or reissue must bear on its title page notation: "Issued under authority of Rule 10 (i), Interstate Commerce Commission Tariff Circular 18-A." Changes in numbers assigned to stations, distances, additions of new stations on old lines of road, or withdrawal of stations may be included in such reissue or supplement, but effective only upon statutory notice; and when any such change is made in a supplement to or reissues of such publication, each such change shall be specifically noted as effective on a date which gives full statutory notice, and title page of such supplement of reissue shall bear notation: Effective [date], except that changes in station numbers, distances, additions of new stations on old lines, and withdrawal of stations are effective [date] as shown in the items which contain such changes." No supplement to or reissue of such publication, whether issued under authority of this Rule or on statutory notice, or under special permission, may contain notice of any change effective prior to the effective date of the supplement or reissue. If, however, such publication contains any rate or any rule or regulation that can affect the charges upon any shipment, no change in the publication may be made except upon statutory notice or by special permission for shorter time.

Separate tariff of lists of points, distances, prepay points, billing instructions, etc.

(j) A tariff publication confined to information and regulations governing the use of tank cars or to information as to numbers, dimensions, capacities, etc., of freight cars may be issued, and, except as hereinafter specified, may be supplements only on statutory notice or under special permission. Supplements to such publication which contain no changes except additions of cars not before listed, substitution of new cars for old cars, changes in ownership of cars, and corrections in marked capacities or dimensions of cars already listed may be issued and made effective upon one day's notice to the Commission and to the public as required by law.

Tank-line gauge books.

In connection with this Rule, regulations as to number of supplements to a publication and the volume of supplemental matter that may be contained therein (Rule 9) must be observed; and when changes are made on short notice hereunder and are incorporated in supplements with other matter brought forward from previous supplements, such other matter must be plainly noted as reissued from a former supplement (see paragraph (d) of Rule 9), and no changes except those above specified may be included.

11. Each carrier shall publish under proper I. C. C. number, post, and file a complete index of tariffs which are in effect and to which it is a party either

Index of tariffs.

as an initial or a delivery carrier. Such index shall be prepared in sections, as follows, and shall show: (a) I. C. C. number; (b) carrier's own number; (c) index number; (d) initials of issuing road or agent; (e) issuing road or agent's number; (f) character of tariff or description of the articles upon which it applies; (g) where tariff applies from; (h) where tariff applies to.

Note.—Items (b), (c), and (e) may be omitted. Items (f), (g) and (h) will be stated in concise general terms.

Arrangement of
Index.

FIRST SECTION. A list of all the tariffs as to which the carrier is an initial carrier. Commodity tariffs to be entered alphabetically under names of commodities or principal commodities. Tariffs applying to different groups of the same commodity must be grouped together; e. g., "Lumber—hardwood;" "Lumber—yellow pine," etc.

Following the specific commodity tariffs will be entered the general commodity tariffs, the class and commodity tariffs, and the class tariffs. Under each of these heads the application of the tariffs will be described by alphabetical arrangement of the points or territory from or to which they apply, in either the "From" or "To" column.

Under the head of "Miscellaneous schedules" will follow list of schedules, such as billing books, classifications, exception sheets, switching tariffs, terminal charges, etc., each entered in alphabetical order.

SECOND SECTION. List of all tariffs under which the carrier is a delivering carrier arranged alphabetically by names of issuing carriers or agents, with the items arranged by commodities and classes under each of such carriers or agents, as prescribed for the first section. If carrier so desires, lists of tariffs under which it is an intermediate carrier may be included in this section, provided those tariffs under which it is a delivery carrier or an intermediate carrier or both are indicated.

THIRD SECTION. A complete list of the numbers of tariffs of its own I. C. C. series arranged in numerical order.

If carrier so desires, lists of its intrastate tariffs, division sheets, official circulars, etc., may appear in this publication. In connection with intrastate tariffs a reference mark must be used with explanation: "Rates in this tariff do not apply to interstate shipments." Tariffs covering specific circus movements and supplements to tariffs need not be included in indices.

Revision and supple-
ments.

If any changes are made, the index must be revised to date, either by reissue each month or by supplement each month and reissue every twelve months. If supplements are used they must be numbered consecutively, must be constructed in accordance with specifications as to construction of index, and show additions, changes and cancellations made in index or canceled supplement thereto.

Notation on title-
page.

Each index must bear on its title-page notations, as follows: "This index contains lists of tariff publications in effect on [date of issue of index];" to which may be added, "or which have been filed to become effective at a later date as shown within." If supplements to index will not be used, "No supplement to this index will be issued;" if supplements will be used, "This index will be reissued on or before —, 19—, and supplements will be issued each month in which change is made."

Each supplement to index must bear on title-page the notation "Supplements Nos. — and — contain corrections to and as in effect on [date of issue of supplement];" to which may be added, "or which have been filed to become effective at a later date as shown within."

Note.—As to indexes now on file which bear notation as to the number of supplements that may be issued thereto and which do not bear notation that they will be reissued on or before a specified date, the Rule heretofore in effect as to supplements must be continued. Such indexes may be brought within the provisions of the above Rule as to supplements by reissue. A specified date for reissue stated on an index now on file must be observed.

The title-page of index or of supplement must show the date of issue thereof, which must correspond to date shown in notations above and must not bear an effective date. The rule requiring thirty days' notice does not apply to these indexes and their supplements.

Date of issue but no effective date.

A group of family lines may unite in the publication and filing by the parent line, or a duly authorized agent, of a joint index of the tariffs of such family lines, provided the application of the tariffs as to each line is plainly indicated and such lines are shown as parties to the joint index by concurrence or power of attorney.

Joint Index of Tariffs.

Note.—This rule is also in rules governing passenger tariffs. One index containing both freight and passenger tariffs may be filed, but if both are included in one index it must be given an I. C. C. number in both freight and passenger series and four copies must be sent to the Commission.

12. Tariffs containing rail-and-water rates or all-water rates applicable via routes upon which it is necessary to close navigation during a portion of the year, and which do not become effective and expire by specified expiration within the same season of navigation, may provide for suspension and restoration of the rail-and-water rates and the all-water rates named therein under the following regulations:

Suspension and restoration of rail-and-water rates.

(a) The following notation shall appear on the title-page of the tariff:

The rates named herein for rail-and-water and all-water transportation are subject to suspension at the close of navigation and restoration on the opening of navigation of [here insert the name of the water carrier or carriers specified in the tariff] on notice as provided on page — of this tariff.

Notation on title-page of tariff.

(b) In the rules governing the tariff shall appear the following:

In anticipation of opening of navigation of [here insert name of water carrier or carriers named in the tariff] restoration of the rail-and-water and all-water rates contained in this tariff and in effective supplements thereto which were in force on the date the rates were last suspended or which have subsequently been made effective, will be announced by supplement to this tariff which will be filed with the Interstate Commerce Commission, be posted at points from which the rates apply, and become effective not less than three days thereafter.

Rule in tariff providing for restoration of rates.

Note.—This effective date shall not be such as to allow more than thirty days at point of transshipment for forwarding by the water carrier.

The rates in this tariff and in supplements thereto for rail-and-water and all-water transportation are effective only during the season of navigation of [here insert the name of water carrier or carriers named in the tariff] until [here insert date upon which freight can be forwarded from point of shipment and with reasonable certainty reach the point of transshipment prior to the last sailing of water carrier]. From that date and until announcement by supplement to this tariff of the date which wholly suspends rates for the season, shipments will be accepted under this tariff only subject to the provision that in the event of such shipments being in excess of the available vessel capacity at time of arrival at port of transshipment or of arrival too late for forwarding by vessel, the same will be forwarded via all-rail route and be subject to the tariff rates via such all-rail route in effect on the date of shipment from the point of origin; shipping receipts, bills of lading, and waybills must bear notation to this effect. The supplement announcing the close of navigation and the suspension of rail-and-water and all-water rates named in this tariff and in its effective supplements will be filed with the Interstate Commerce Commission and will be posted at points from which the rates apply not less than three days in advance of the date upon which the rates will be suspended from points of original shipment.

Rule in tariff providing for suspension of rates.

When rates in a tariff which was effective during a previous season of navigation have been restored by supplement to that tariff and such tariff is canceled by a new tariff for the approaching season which is filed to become effective upon

a date subsequent to the date of such restoration, no supplement to the new tariff, announcing restoration of rates, is required.

Restoration of rail-and-water rates which are under suspension when new tariffs are filed for the approaching season of navigation.

When rates in the tariff which were effective during a previous season of navigation are not restored by supplement to that tariff but are canceled by new tariff filed effective upon statutory notice, prior to the opening of navigation, it is necessary that such new tariff be supplemented to announce restoration of rates, which restoration must not be prior to the effective date stated upon the title-page of the new tariff; or, in lieu of the issuance of such supplement, the new tariff may, in connection with and following the rule governing the restoration of rates, carry a provision as follows:

The effective date of this tariff is as shown on title-page and therefore no supplement announcing restoration of rates is required for the season of 19—.

When a new tariff which does not cancel a previous tariff is filed effective upon statutory notice, prior to the opening of navigation, it is necessary that such new tariff be supplemented to announce the opening of navigation, and the effective date of such announcement must not be prior to the effective date stated upon the tariff; or, in lieu of the issuance of such supplement, the new tariff may, in connection with and immediately following the rule governing restoration of rates, carry a provision as follows:

The effective date of this tariff is shown on title-page and therefore no supplement announcing restoration of rates is required for the season of 19—.

In instances where definite dates of closing and opening of navigation may be determined for each season of navigation the following rule may be incorporated in the tariff, instead of the two rules provided for in paragraph (b) of this Rule:

The rates in this tariff and in supplements thereto for rail-and-water and all-water transportation are effective only during the season of navigation of the [here insert the name of water carrier or carriers named in the tariff], which will be from [opening date] to [closing date], inclusive. From the latter date until the actual close of navigation [actual closing date], at which time such rates in this tariff will be wholly suspended, shipments will be accepted under this tariff only subject to the provision that in the event of such shipments being in excess of the available vessel capacity at time of arrival at port of transshipment or of arrival too late for forwarding by vessel the same will be forwarded via all-rail route and will be subject to the tariff rates via such all-rail route in effect on the date of shipment from the point of origin. Shipping receipts, bills of lading and waybills must bear notation to this effect.

The rates in this tariff or in effective supplements thereto for rail-and-water or all-water transportation which were in force when the rates were wholly suspended [closing date], or which have subsequently been made effective, will be restored and applied on and after [opening date].

(c) Where the tariff suspended or restored under this Rule applies to joint transportation by rail and river, or canal, or inland lakes other than the Great Lakes, such tariffs may be suspended or restored on a like notice of one day instead of three days.

(d) Supplements issued under this Rule announcing suspension and restoration of rail-and-water and water rates in tariffs must not contain anything except such suspension or restoration notice or notices. Only one such supplement announcing suspension or restoration of the rates in a tariff may be in effect at any time, and such supplement will not be counted against the number of supplements permitted to such tariff under Rule 9 (e).

Routes other than Great Lakes may suspend or restore on one day's notice.

Supplements may contain.

Not counted against tariff.

(e) Rail-and-water and all-water rates suspended under this Rule may be reissued or amended during such period of suspension upon statutory notice the same as though the rates were in effect and active use, but the restoration of the rates by supplement notice will not advance the effective date of any supplement to the tariff which has not on the date of restoration become effective. Supplements made effective prior to the date of restoration will be made effective on a given date, or may be stated to be "Effective with restoration of tariff and supplements for season of 19— (to be announced by subsequent supplement) but not earlier than [statutory notice] 19—, nor earlier than noted in individual items."

Suspended tariffs may be reissued or amended.

(f) Statutory notice of suspension, withdrawal, or restoration of rates or regulations must be given as to all tariffs that do not contain the provisions of paragraphs (a) and (b) of this Rule.

(g) The provisions of Rule 10 will also apply to carriers in rail and water lines and to tariffs applying on such lines, and in addition thereto, if storage or transit privilege is given at port of transshipment on the Great Lakes in connection with a joint rail-and-water rate upon which shipment moves from point of origin, the initial carrier's tariff which contains such rate must also contain the privilege or the charge, or give specific reference by I. C. C. number to the tariff of the carrier that grants the privilege or performs the service which contains such regulations and charges connected therewith.

Storage and transit privileges.

13. (a) Tariffs, classifications, and exception sheets and supplements thereto shall be filed with the Commission by proper officer of the carrier or by an agent designated to perform that duty, and concurrence of every carrier participating therein must be on file with the Commission or accompany the tariff or supplement. If a carrier authorizes an agent to file its tariffs or classifications and exception sheets and supplements thereto, or certain of them, official notice of such authorization and of acceptance of responsibility by the carrier for his acts, in form as hereinafter specified, must be filed with the Commission.

Filing of tariffs.

Concurrences.

Authorizing an agent to file tariffs.

Such authority may be revoked by a carrier upon thirty days' official notice to the Commission, or at any time be transferred to another agent by filing with the Commission notice of such transfer, accompanied by a full-form authorization for the newly named agent.

Authority to agent may be revoked or transferred.

(b) If two or more carriers appoint the same person as agent for the filing of tariffs or classifications and supplements thereto, each of them will be required to file with the Commission power of attorney in form prescribed appointing him their agent; and the concurrence of every other carrier participating in any tariff or classification or supplement thereto which is filed by him must be on file with the Commission or accompany the tariff.

Authorizations for agent and concurrences in his tariffs must be on file.

When consolidated form of concurrence FX6, FX7, or FX8 has been used and additions are to be made to the list of roads for which such agent acts under powers of attorney the necessity for a new set of consolidated concurrences presents itself. Trouble and inconvenience can be avoided by the issuance of powers of attorney authorizing such agent to receive concurrences provided in Rules 23, 24, and 25, and the securing of new concurrences will be comparatively simple.

Use of consolidated concurrences.

(c) Such joint agent duly authorized to act for several carriers must file joint tariffs or classifications or exception sheets under I. C. C. serial numbers of his own.

Joint agent will use his own I. C. C. serial number.

(d) Tariffs issued by a carrier under its I. C. C. numbers may include, under proper concurrences shown therein, rates via, and to and from points on other carriers' lines, and concurring carriers may use such tariffs for posting at their stations. Such tariff must be filed by the issuing carrier and such filing will constitute filing for all lawfully concurring carriers.

Tariffs issued by a carrier under concurrences will be filed by it for all concurrences.

Send copies of joint publication to every participant therein.

Carrier must not publish rates conflicting with or duplicating rates published by its agent.

When agent files class, but not commodity rates.

All State or other rates used for interstate shipments must be posted and filed.

Concurrences and Powers of Attorney to new agent.

(e) The agent or the carrier that issues a joint tariff publication shall at once send copies thereof to each and every carrier that is named as party thereto.

(f) A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates must not in its own publications publish rates that duplicate or conflict with those which are published by such authorized agent or other carrier.

(g) If an agent publishes class rates and does not also publish commodity rates, such agent's class tariff must carry notation that the commodity rates of the carriers parties to the tariff are to be found in their individual issues, and that where so found they take precedence over class rates.

If an agent publishes a part but not all of the commodity rates of the carriers for which he acts, all of his tariffs containing commodity rates must bear notation that commodity rates not shown therein are to be found in the carriers' individual issues, and where so found they take precedence over class rates.

(h) Rates for through shipments are often made by adding together two or more rates. All State or other rates used in combination for interstate shipments must be posted at points from which they apply and filed with the Commission, and can only be changed as to such traffic in accordance with the terms of the Act.

(i) When an agent who issues and files tariffs under powers of attorney is succeeded by another agent, it becomes necessary to file notice of transfer of such authority and to cancel powers of attorney to the former agent, simultaneously with the filing of new powers of attorney in favor of the new agent.

It has been essential also, under such circumstances, that consolidated forms of concurrence, FX6, FX7, or FX8, in favor of carriers for which the former agent acted, be replaced by the new consolidated forms, running to the principals of the new agent. When the same principals that appointed the former agent will be served by the new agent without change, the consolidated concurrence forms on file naming the former agent need not be reissued, but may be transferred to the new agent by issuing and filing for each of such concurrences a transfer notice stating that the concurrence naming the former agent will thereafter authorize participation in tariff publications filed by the new agent on behalf of the same carriers.

The transfer notice shall be as follows:

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT.

TRANSFER NOTICE TO FX —, No. —,
—, 19—.

TO THE INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

Effective —, 19—, this company's concurrence, form FX—, No. —, naming [name of former agent] as agent for carriers therein listed, will authorize participation by this company in tariff publications issued and filed on behalf of the same carriers by [name of new agent].

[Name of carrier in full.]

By —, [Sig.]
— [Title.]

This form must be filed with the Commission not later than the date effective provided therein, must be printed or typewritten on paper 8 by 10½ inches in size, and must be signed by proper traffic officer or the issuing company, but shall not bear serial number other than that of the concurrence form to which it applies.

When changes will occur in the list of carriers for which the new agent will act, cancellation of concurrences naming former agent, and issuance of new concurrences naming the new agent, will be necessary as heretofore.

14. (a) The Act requires that all changes in rates, or in rules that affect rates, shall be filed with the Commission at least thirty days before the date upon which they are to become effective. Manifestly it is impossible for the Commission to check the items in tariffs to determine whether or not the statutory notice has been given. The title-page of every tariff or supplement must show full thirty days' notice, or must bear a plain notation of the number and date of the permission, or Rule, or the decision of the Commission under which it is effective on less than statutory notice.

Statutory notice or authority for shorter notice must be shown.

(b) The law affirmatively imposes upon each carrier the duty of filing with the Commission all of its tariffs and amendments thereto, as prescribed in the law or in any rule relative thereto which may be announced by the Commission, under penalty for failure so to do, or for using any rate which is not contained in its lawfully published and filed tariffs. The Commission will give such consistent assistance as it can in this respect, but the fact that receipt of a tariff, or supplement to a tariff, is acknowledged by the Commission, or the fact that a tariff, or supplement to a tariff, is in the files of the Commission will not serve or operate to excuse the carrier from responsibility or liability for any violation of the law, or of any ruling lawfully made thereunder, which may have occurred in connection with the construction or filing of such tariff or supplement.

Receipt and filing of tariffs by Commission does not relieve carriers from liability for violation of Act or regulations thereunder.

(c) Thirty days' notice to the public and to the Commission is required as to every publication which it is necessary for a carrier to file with the Commission, regardless of what changes may or may not be effected thereby.

Thirty days' notice required for every publication filed.

(d) No tariff or supplement will be accepted for filing unless it is delivered to the Commission, free from all charges or claims for postage, the full thirty days required by law before the date upon which such tariff or supplement is stated to be effective. No consideration will be given to or for the time during which a tariff or supplement may be held by an express company for charges or by the Post-Office Department because of insufficient postage. A tariff or a supplement that is received by the Commission too late to give the Commission the full thirty days' notice required by law will be returned to sender, and correction of the neglect or omission can not be made which takes into account any time elapsing between the date upon which such tariff or supplement was received and the date of attempted correction. In other words, when a tariff or a supplement is issued and as to which the Commission is not given the statutory notice it is as if it had not been issued, and full statutory notice must be given of any reissue thereof. No consideration will be given to telegraphic notices in computing the thirty days' notice required. For tariffs and supplements issued on short notice under special permission of the Commission full thirty days' notice is not required, but literal compliance with the requirements for notice named in any permission granted by the Commission will be exacted and in accord with the policy and practice above outlined.

Tariffs must be delivered to Commission, free from all charges or claims for postage, the full time required by law.

(e) When a schedule is rejected by the Commission as unlawful, the records so show and, therefore, such schedule should not thereafter be referred to as canceled, amended, or otherwise except to note on publication that is issued in lieu of such rejected schedule, "In lieu of _____ rejected by Commission;" nor should the number which it bears be again used.

Rejected schedules.

(f) Rates prescribed by the Commission in its decisions and orders after hearings upon formal complaints shall, in every instance, be promulgated by the carriers against which such orders are entered in duly published, filed, and posted tariffs,

Rates prescribed in Commission's decisions must be promulgated in tariffs and Commission notified.

or supplements to tariffs, and notice shall be sent to the Commission that its order in Case No. — has been complied with in item—, page — of ——— tariff, I. C. C. No. —, or supplement — to ——— tariff, I. C. C. No. —.

Maintenance of relative adjustment in issuing tariffs to conform with formal order of the Commission.

In establishing rates or regulations under an order of the Commission in a formal case, carrier or carriers that are actually and on the record parties to the case, or that are lawful parties to a joint tariff in which the rate or regulation that is prescribed is published by some carrier that is party to the case, may include in the change or changes made in compliance with the Commission's order commodity or commodities that are grouped with that or those which are specified in the order; and may also include adjustment at other points in order to preserve established grouping or relation of points, and may also include adjustment of rates to same points on other commodities for the purpose of maintaining established relation of rates between commodities; Provided, all such changes made by authority of this Rule shall be effected by reductions in rates or charges.

If carrier that is not so party to the case or to the joint tariff desires to make on less than statutory notice the same changes that are made under the order by carrier that is party to the same, it must secure special permission so to do.

Permission for less than statutory notice and notation on tariff.

Unless otherwise specified in the order in the case, such tariff or supplement must be made effective upon statutory notice to the Commission and to the public, and whether made effective on less than statutory notice under special authority granted in the order in the case, or upon statutory notice, shall bear on its title-page notation "In compliance with order of Interstate Commerce Commission in Case No. —."

If the order of the Commission affects any individual item or items in a tariff, above notation shall be shown in connection with said item or items and shall be repeated in each reissue thereof during the period of effectiveness of the Commission's order.

Circulars announcing compliance with orders of court.

(g) Circulars announcing or explaining the attitude and course of carriers under injunction of a court, relating to tariff rates or regulations, must not be issued as supplements to tariff nor given I. C. C. numbers unless they are issued on statutory notice or under special permission from the Commission for shorter time. The Commission will, however, be pleased to have copies of such circulars and the information therein contained.

Numerical order of I. C. C. numbers of tariffs, or explanation of missing numbers, required.

(h) Each carrier files tariffs under I. C. C. numbers, which are presumed to be used consecutively. Occasionally a tariff or supplement is received which does not bear I. C. C. number next in numerical order to that borne by the last one filed. This is sometimes occasioned by the missing number having been assigned to a tariff that is in course of preparation. Request is made that in so far as is possible carriers will file tariffs and supplements in consecutive numerical order of I. C. C. numbers. If from any cause this is not done in any instance, the tariff or supplement that is filed with an I. C. C. number that is not consecutive with the last number filed must be accompanied by a memorandum explaining as to the missing number or numbers.

Two copies of tariffs must be filed.

(i) Common carriers and agents are directed, in filing schedules in compliance with the statute, to transmit two (2) copies of each tariff, supplement, classification, or other schedule of rates or regulations, for the use of the Commission, both copies to be included in one package and under one letter of transmittal.

Address for tariffs.

Tariffs sent for filing must be addressed "Interstate Commerce Commission, Division of Tariffs, Washington, D. C."

Issuance of fast freight line billing books.

15. (a) Fast freight line billing or instruction books which are, by reference, made part of carrier's tariffs, are in effect tariffs. The following method of publication and filing of such books and of concurring therein may be followed:

The interested carriers may arrange for a carrier of their number to execute power of attorney FX1 appointing an agent with authority to issue the billing or instruction book in the name, place, and stead of the carrier giving the power of attorney. The publication must show on its title-page that it is issued by the person designated in the capacity of agent for the carrier that gives him power of attorney.

It will be sufficient for each of the other initial carriers that uses the billing or instruction book in connection with its tariffs to give concurrence in that book, running to the carrier that issues the book, on Form FX2 or FX5; and for all carriers that participate in the publication as intermediate or terminal carriers to each give general concurrence FX3 or FX4 in the tariffs issued by the carrier granting power of attorney, or its agent.

Concurrence Form FX3 will, without modification, include the billing or instruction books issued by a carrier to which such concurrence has been given, or by its agent under power of attorney, but if such publication names or affects rates from the stations on line of concurring carrier concurrence FX2, FX4 or FX5 must be used.

(b) A tariff may contain rates to base points which must be concurred in by intermediate and terminal carriers over the lines of which the rates apply to such base points, and when the issuing carrier is a party under proper form of concurrence or power of attorney in a billing or instruction book, such tariff may provide for the application of rates to points as specified in the billing or instruction book by specific provision in the tariff, and reference to the I. C. C. number of the billing or instruction book. It is not necessary that such tariff should specify names and concurrence forms and numbers of the intermediate and terminal carriers which are shown as participating carriers in the billing or instruction books. The billing or instruction book is made a part of the tariff by specific reference, and the carriers concurring in the billing or instruction book are thereby made lawful participants in the application of the rates named in the tariff to the points on concurring carrier's line, as authorized in the billing or instruction book.

Tariff may refer to fast freight line billing books.

(c) Rules and regulations governing switching, deliveries, lighterage, and other terminal charges, together with provisions for absorption of same, as same are lawfully on file with the Commission, applicable at points reached by terminal carriers lawfully parties to a billing or instruction book authorized by this Rule, may be reproduced in such billing or instruction book, for the information of shippers.

Reproduction of rules as information.

Such reproduction must be in a separate section of the book, and each page of such section must bear in conspicuous form at the top thereof the following notation:

FOR INFORMATION ONLY

These rules and regulations are reproduced here under Rule 15 of the Interstate Commerce Commission's Tariff Circular No. 18-A, for information only, and in case of conflict between the information here given and the rules and regulations of carriers parties hereto as lawfully on file with the Commission, the tariffs on file with the Commission will take precedence and apply.

The reproduced terminal rules must be stated separately, must show the name or names of the carrier or carriers whose rules they are, and each such entry must bear introductory note as follows:

Reproduction from _____ Tariff I. C. C. No. —, filed with the Interstate Commerce Commission, to take effect _____, 19—.

16. (a) A carrier may grant to a joint agent authority to publish and file for its classification and supplements thereto and exceptions to the classification; or,

Issuance of classification by joint agent.

such exceptions may be published by the carrier in its own issues, either as parts of individual tariffs or in a publication that is given an I. C. C. number, that is filed and posted as required and that is devoted to such exceptions. (See Rule 3 (e).) Such exceptions and changes therein may be made only on statutory notice or under special permission for shorter time.

In so far as is reasonably practicable exceptions should be included in the tariff which they effect.

I. C. C. numbers of classification.

List of participating carriers.

Filing classification.

A joint agent to whom carriers have extended authority under power of attorney to publish and file classification and supplements thereto must issue them under his own I. C. C. numbers, must show in the classification a list of the carriers for which he acts under power of attorney, giving as to each the FX1 number of such authority, and must file the classification and supplements thereto on behalf of all the carriers that have so authorized him to act for them, and such carriers will not file the classification or supplements thereto for themselves. The provisions of the law as to statutory notice must be observed in the issuance of supplements or reissues of the classification.

Showing participating carriers in supplements.

If carrier does not authorize agent to file classification, carrier is bound to statutory notice.

Power of attorney.

In showing the list of participating carriers in supplement the rule prescribed in Rule 9 will be followed.

(b) If a carrier fails to authorize an agent to file the classification for it and undertakes to file it for itself, it is bound by the terms of the law as to notice of change and date of filing, both as to the classification and each supplement thereto.

(c) In giving power of attorney for this purpose the form shown in Rule 18 may be modified by striking out from line 6 the word "tariffs," and, if desired, from line 7 the words "and exception sheets."

Concurrence.

If a carrier has given another carrier concurrence FX4, under which it concurs in classification which that other carrier or its agent may make and file, the carrier to which that concurrence is given may exercise the authority by its lawfully appointed agent, and the carrier which gave the authority be shown in the publication as participant under the form and number of its concurrence.

Joint tariffs issued by joint agents.

17. (a) It will be permissible for an agent and attorney for certain lines to join with another agent and attorney for lines in another territory in the issuance of tariffs, naming joint through rates from points in one territory to points in the other, or "between" points in the territories represented by such agents. In doing this each of such agents acts for the lines that have given him power of attorney FX1 and for the lines that have given proper concurrences to the carriers that have given him such power of attorney; and for such lines only.

I. C. C. numbers and filing.

Such publication will bear I. C. C. numbers, under the serial of each of the agents, and each of the agents will file the publication and each and every supplement thereto for and on behalf of the roads for which he is attorney and agent and those that are participants under concurrences to the roads for which he is agent and attorney, just as if it were his individual publication on behalf of those carriers alone. Each of such agents will be held to strict conformity to the law and the tariff regulations regarding the construction of the tariff and notices of changes therein, and in filing the tariff and each and every supplement thereto.

Each agent acts only for carriers for which he has authority.

(b) Under this arrangement each agent acts only for the carriers that he has due authority to act for. The principals of each are bound by the acts of their attorney and agent, and as each will file the tariff under his own I. C. C. number and for the roads which he lawfully represents, the cross-exchange of concurrences between all of the different roads represented on the one hand by one agent and on the other hand by the other agent will not be necessary as to that tariff.

Principals of each agent bound by his acts, and cross-exchange of concurrences not required.

(c) Such publication must show lists of participating carriers as follows: Lists of participating carriers.
First, a list of the carriers from which one of the agents has power of attorney FX1, showing as to each the FX1 number of such authority, and a list of the carriers that participate under concurrences to the lines for which that agent is agent and attorney, showing the form and number of each concurrence. Second, a list of the carriers for which the other agent is agent and attorney, with the FX1 number of his authority as to each, and a list of the carriers that participate under concurrences to the lines for which that agent is agent and attorney, showing the form and number of each concurrence.

Each of these subdivisions of the participating carriers will be indicated by plain headlines, as, for instance. "Carriers for which _____ is agent and attorney, and carriers participating under concurrences to such carriers," and like notice for the other agent's list of principals and concurring carriers.

In order to avoid confusion and complications under this plan, it is essential that the agents adopting it shall perfect their understandings and that there shall be no omission or neglect on part of either about filing under lawful notice any tariff so issued or any supplement thereto.

18. The following form, on paper 8 by 10½ inches in size, will be used in giving authority to an agent to file for the carrier giving the authority tariffs and supplements thereto. Such authority must not be given to an association or bureau, and it may not contain authority to delegate to another power thereby conferred.

Form of appointment of agent.

This form may be modified so as to confer the authority desired by omitting the words "(1) for it alone, and (2)," or by omitting the words "and (2) for it jointly with other carriers."

If two or more carriers execute this form containing the words "for it jointly with other carriers" in favor of a joint agent it will not be necessary for those carriers to exchange concurrences with each other as to the joint tariffs issued by that joint agent under that authority.

Cross-exchange of concurrences avoided.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full]

[Date] _____, _____

Form FX1—No. —.

Know all men by these presents:

That the [name of carrier] has made, constituted, and appointed, and by these presents does make, constitute, and appoint [name of person appointed] its true and lawful attorney and agent for the said company and in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers, to file tariffs, classifications, and exception sheets and supplements thereto, as required of common carriers by the Act to regulate commerce and by regulations established by the Interstate Commerce Commission thereunder for the period of time, the traffic and the territory now herein named:

And the said [name of carrier] does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes as if the same were done and performed by the said company, hereby ratifying and confirming all that its said agent and attorney may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

In witness whereof the said company has caused these presents to be signed in its name by its — president and to be duly attested under its corporate seal by

its secretary, at _____, in the State of _____, on this _____ day of _____, in the year of our Lord nineteen hundred and _____.

The [name of carrier],
By _____,
Its _____ President.

Attest:

_____,
Secretary.
[CORPORATE SEAL.]

Original form to be filed with Commission and duplicates furnished agent.

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the agent to whom power of attorney is given. Separate authorizations will be given for freight and passenger tariffs.

For concurrence in tariffs issued and filed by another carrier or its agent forms prescribed in Rules 19 to 25, inclusive, will be used.

Note.—Experience has demonstrated that it is simpler and better to use concurrence than power of attorney in giving authority to a carrier to publish and file another carrier's rates. Provision for giving power of attorney to another carrier has, therefore, been eliminated except for the purpose of granting authority to give and receive concurrences as provided in Rule 26.

Form of concurrence.

19. The following form will be used in giving concurrence in a tariff that is issued and filed by another carrier or its agent and to which the carrier giving concurrence is a party. If given to continue until revoked, it will serve as continuing concurrence in the tariff described in the concurrence and all supplements to and reissues thereof. If provision for concurrence to continue until revoked is stricken out, a new concurrence will be required with each supplement or reissue.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,
[Date] _____, ____.

Form FX2-No. —.

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of the rate schedule described below, together with supplements thereto and reissues thereof which the named issuing carrier or its agent may make and file, and hereby makes itself a party thereto and bound thereby, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the carrier to which this concurrence is given.

Title and number: [Here give exact description of title of schedule, including number and name of series.]

Date of issue: _____, ____.

Date effective: _____, ____.

Issued by { [Official.]
[Company.]

[Name of carrier.]
By [Name of officer.]
[Title of officer.]

The original of this form will be filed with the Commission by the carrier or agent who files the tariff and will accompany the tariff.

Concurrence accompanying tariff.

20. Concurrence may be given by any carrier to embrace all tariffs issued by another carrier or its agent in which the concurring carrier is shown as a participating, intermediate or delivering line, after the following form:

Form of concurrence.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

Form FX3—No. —.

[Date] ———, ———.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any freight-rate schedule or supplement thereto which the [name of carrier] or its agent may make and file, in which it is shown as a participating carrier, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying via this line and to, but not from, points thereon, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the carrier to which this concurrence is given.

[Name of carrier.]

By [Name of officer.]

[Title of officer.]

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the carrier to which concurrence is given. This form must not be qualified in any way except to show what agents have been given power of attorney and to provide that tariffs shall not be issued under the concurrence covering traffic provided for in tariffs issued by such agents.

Original form to be filed with Commission and duplicate furnished carrier.

21. Concurrence may be given by a carrier in tariffs issued by another carrier or its agent applying rates to or from its points or via its lines, on certain described traffic or between certain described points or territories, after the following form, modified as may be necessary to confer exactly the authority intended to be granted. For granting authority to publish and file rates to and from and via its lines, and not otherwise qualified, carrier will use concurrence form FX5 or FX7, as per Rules 22 and 24:

Form of concurrence.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

[Date] ———, ———.

Form FX4—No. —.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any freight-rate schedule or supplement thereto which the [name of carrier] or its agent may make and file and in which this company is shown as a participating carrier, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying from ———; or between ——— and ———; or from ——— to ———; or via ———; until this authority is revoked by formal and official notices of revocation placed in the hands of the

Interstate Commerce Commission and of the carrier to which this concurrence is given.

[Name of carrier.]

By [Name of officer.]

[Title of officer.]

Original form to be filed with Commission and duplicate furnished carrier.

Form of concurrence.

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the carrier to which concurrence is given.

22. Concurrence may be given by a carrier in tariffs issued by another carrier or its agent applying rates to and from its points and via its lines and after the following form:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

[Date] ———, ———.

Form FX5—No.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any freight-rate schedule or supplement thereto which the [name of carrier] or its agent may make and file, and in which this company is shown as a participating carrier, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying to and from stations on its lines, and via its lines, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the carrier to which this concurrence is given.

[Name of carrier.]

By [Name of officer.]

[Title of officer.]

Original form to be filed with Commission and duplicate furnished carrier.

Form of concurrence.

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the carrier to which concurrence is given. This form must not be qualified in any way, unless to show what agents have been given powers of attorney and to provide that tariffs shall not be issued under the concurrence covering traffic provided for in tariffs issued by such agents.

23. If two or more carriers appoint the same person as agent for the publication and filing of tariffs and supplements thereto under powers of attorney form FX1, concurrence in tariffs issued by him under such authority may be in the following form:

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

[Date] ———, ———.

Form FX6—No. —.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any freight-rate schedule or supplement thereto which the [here give list of all roads for which the agent has powers of attorney], or either or

any of them, may make and file through their agent and attorney [name of agent], and in which it is shown as a participating carrier, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying via its line, and to but not from points thereon, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the carrier to which this concurrence is given, or of its agent and attorney herein named.

[Name of carrier.]

By [Name of officer.]

[Title of officer.]

Carrier issuing this form will file the original with the Commission and will furnish duplicate to each of the carriers named in the concurrence, or, if each of those carriers has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicates to each and every carrier represented by him.

Filing.

24. If two or more carriers appoint the same person as agent for the publication and filing of tariffs and supplements thereto under powers of attorney form FX1, concurrence in tariffs issued by him under such authority may be in the following form:

Form of concurrence.

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

[Date], ———, ———.

Form FX7—No. —.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any freight-rate schedule or supplement thereto which the [here give list of all roads for which the agent has powers of attorney], or either or any of them may make and file through their agent and attorney [name of agent], and in which it is shown as a participating carrier, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying via its line, and to and from points thereon, until this authority is revoked by formal and official notices of revocation placed in the hands of the Interstate Commerce Commission and of the carrier to which this concurrence is given, or of its agent and attorney herein named.

[Name of carrier.]

By [Name of officer.]

[Title of officer.]

Carrier issuing this form will file the original with the Commission and will furnish to each of the carriers named in the concurrence, or, if each of those carriers has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicates to each and every carrier represented by him.

Filing.

25. If two or more carriers appoint the same person as agent for the publication and filing of tariffs and supplements thereto under powers of attorney form FX1, concurrence in tariffs issued by him under such authority applying to or from certain points or territory may be issued in the following form, modified as may be necessary to confer exactly the authority intended to be granted:

Form of concurrence.

FREIGHT TRAFFIC GUIDE

TO BE FILED WITH THE INTERSTATE COMMERCE COMMISSION

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

[Date] ———, ———.

Form FX8—No. —.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

This is to certify that the [name of carrier] assents to and concurs in the publication and filing of any freight rate schedule or supplement thereto which the [here give list of all roads for which the agent has powers of attorney], or either or any of them, may make and file through their agent and attorney [name of agent], and in which it is shown as a participating carrier, and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying upon ———; or between ——— and ———; or from ——— to ———; or from ——— to points on or reached via its line; or from points on or via its line to ——— until this authority is revoked by formal and official notice of revocation placed in the hands of the Interstate Commerce Commission and of the carriers to which this concurrence is given, or of their agent and attorney herein named.

[Name or carrier.]

By [Name of officer.]

[Title of officer.]

Filing.

Carrier issuing this form will file the original with the Commission and will furnish duplicate to each of the carriers named in the concurrence, or, if each of those carriers has given said agent power of attorney to receive for it concurrences, original will be filed with the Commission and one duplicate may be filed with such agent instead of furnishing duplicate to each and every carrier represented by him.

Note.—Concurrence, form FX2, applies to individual publication named therein. Concurrence, form FX3 or FX6, confers authority to publish and file rates to, but not from, points on line of concurring carrier, and via its lines. Concurrence, form FX5 or FX7, confers authority to publish and file rates to and from points on line of concurring carrier, and via its lines. Forms FX3, FX5, FX6 and FX7 are not to be modified except as specified in the Rules. The use of these several forms as provided will, therefore, show by the form number just what authority has been given, except when form FX4 or FX8 is used, these forms being provided for instances which the other forms do not exactly fit. The Commission does not require the substitution of concurrence form FX5 for form FX4, now on file, which covers only the authority provided for in the new form FX5, but will welcome such substitution. For all new concurrences forms will be used as specified in the several Rules, and FX4 or FX8 only when neither of the other forms provides for the authority it is desired to confer.

Number of concurrences and authorizations.

Concurrences must be given to carriers.

Separate concurrences for freight and passenger tariffs. Revocation effective.

26. (a) Each carrier will give authorizations and concurrences serial numbers, beginning with No. 1 in each series, as indicated by forms, and continuing in consecutive numbers as to each series, and keeping these numbers separate and apart from the I. C. C. numbers of tariffs. (See paragraph (f) of this Rule.) Concurrences must be given to carriers named therein and authority so granted to a carrier may be by it delegated to its lawfully appointed agent.

Separate concurrences will be given for freight and passenger tariffs.

(b) A concurrence may be revoked by filing notice of such revocation with the Commission and serving same upon the carrier to which such concurrence was given. Such notice must specify the date upon which revocation is to be made effective and must give at least sixty days' notice to the Commission and to the carrier to which concurrence was given. Corresponding revision of tariff or tariffs shall be made in the next supplement to or reissue thereof, and if necessary, supplement or reissue shall be made for the sole purpose of making such change lawfully

effective on statutory notice upon the effective date stated in the notice of revocation.

Change in a tariff is effective when and only when the tariff as filed and posted is changed; changes effected by revocation of concurrence can not be known to the public or to the agents of carriers until it appears in the regular way in the tariff. A carrier that has duly revoked a concurrence as herein provided has the right to be free from the unsatisfactory rate or regulation on the date upon which revocation becomes effective. The public has the right to use the rates shown in a lawfully filed and published tariff. The Rule provides ample time within which to change a tariff. If, therefore, when a concurrence is revoked, the carrier that publishes the tariff neglects to make a change therein as provided in this Rule, shippers are entitled to have shipments moved as provided in the tariff, and the carrier that so neglects to correct its tariff will be held liable to other carriers for the difference in charges under the tariff as it is and as it would be if it had been corrected in accordance with revocation of concurrence. If the tariff is published by a joint agent, the provisions hereof will apply to each of his principals, as traffic is tendered to them as initial carriers.

Liability of carrier for failure to change tariff when concurrence is revoked.

(c) Subsidiary or small lines which do not wish to issue concurrences or tariffs may give to the parent or other line power of attorney to concur in tariffs, and also general concurrence FX4 or FX5, to file tariffs, and the carrier holding such authority and concurrence may give, and also receive, concurrences for itself and the lines for which it acts in one instrument. Such subsidiary or small lines must, however, be named in concurrences so given. In giving power of attorney to concur in tariffs, form FX1 will be modified by striking out from line six the word "file" and substituting the following therefor: "to give and receive concurrences in."

Subsidiary or small-line tariffs.

(d) In giving concurrences care must be taken to avoid probability of two or more agents or carriers naming conflicting rates or rules.

Conflicting authority to be avoided.

(e) The granting of authority to issue tariffs under power of attorney, or concurrence, does not relieve the carrier conferring the authority from the necessity of complying with the law with regard to posting tariffs. It is proper to use tariffs issued under its authority for that purpose.

Carrier issuing authority or concurrence is not relieved from duty of posting tariffs.

(f) All powers of attorney and certificates of concurrence must be printed or typewritten on hard calendered paper 8 x 10½ inches in size.

Quality and size of paper.

The series to which each power of attorney or certificate of concurrence belongs must be indicated, and the serial number of each must be shown, in upper right-hand corner of first page. Immediately under the serial number shall be shown the number, or numbers, of powers of attorneys or certificates of concurrence, as the case may be, to be canceled.

Serial number on upper right-hand corner.

Each power of attorney or certificate of concurrence filed must show the post-office address of the issuing officer in the date line preceding body of form.

Joint concurrences of two or more carriers under same traffic officer.

When a series of joint concurrences, issued on behalf of two or more carriers by the same traffic officer, is maintained, each concurrence filed on that series must be issued on behalf of all the carriers for whom the common traffic officer acts. Otherwise separate files of concurrences must be maintained, one for each road, certificates in each series of such individual files to be filed in consecutive numerical order as required by paragraph (a) of this Rule.

27. All tariffs that are filed with the Commission shall be accompanied by a letter of transmittal, on paper 8 by 10½ inches in size, and to the following effect:

Letter of transmittal.

[Name of carrier in full.]

GENERAL FREIGHT DEPARTMENT,

[Date] ———, ———.

Advice No. ———.

To the INTERSTATE COMMERCE COMMISSION,

Washington, D. C.:

Accompanying schedule is sent you for filing, in compliance with the requirements of the Act to regulate commerce, issued by ——— ———, and bearing

I. C. C. No. —.

Supp. No. —, to I. C. C. No. —.

Effective ———, 19 —:

and is concurred in by all carriers named therein as participants, under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

[Signature of filing agent.]

A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can conveniently be entered.

Note.—If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate and one copy will be stamped and returned as receipt.

Rules 28 to 51, inc., pertain to Passenger Traffic, and are omitted.

Administrative Rulings

52. Pertains to Passenger Traffic.

53. Pertains to Passenger Traffic.

54. CHANGES IN RATES OR FARES (issued March 18, 1907).—Section 6 of the Act, as amended June 18, 1910, provides that—

No change shall be made in the rates, fares and charges, or joint rates, fares and charges, which have been filed and published by any common carrier in compliance with the requirements of this section, except after thirty days' notice to the Commission and to the public, published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by *printing new schedules*, or shall be plainly indicated *upon the schedules* in force at the time and kept open to public inspection.

(a) (Adopted February 8, 1909.) This provision plainly refers to rates and fares which have already become effective, and also applies the term "proposed changes" to rates and fares which have not become effective. It follows that after notice of a change in rates or fares has been filed and published the new rates or fares must be allowed to go into effect, and can not be withdrawn canceled, or superseded except upon notice filed and published for at least thirty days after the date when the rates or fares have become effective. A tariff may provide that it will expire upon a date specified therein and which is at least thirty days subsequent to the date upon which it becomes effective, or a tariff may contain a notation that

Rate or fare
changes.

Rate and fare
changes filed and
published, must be-
come effective.

Rates or fares in
force can only be
changed on thirty
days' notice.

certain rates or fares therein stated will expire upon a date therein specified which is at least thirty days subsequent to the date on which such rates or fares become legally effective, and this will be legal notice of the cancellation or withdrawal of such tariff or of such rates or fares. Any tariff may be changed upon statutory notice of thirty days, or, under special permission from the Commission, upon shorter notice. Therefore a provision in a tariff that the tariff or any part of it will expire upon a given date is not a guaranty that the tariff, or such part of it, will remain effective until that date. Such provision must be understood to mean that the tariff, or specified part of it, will expire upon the date named unless sooner canceled, changed, or extended in lawful way.

Excursion passenger-fare tariffs, issued under authority of Rule 52, are not subject to the provisions of this Rule.

A tariff of passenger fares which provides that it will expire upon a specified date, and that is not issued under authority of Rule 52, may be amended in the regular way and upon statutory notice, even though such amendment will not remain in effect for thirty days prior to the date of expiration of the tariff.

(b) (Issued March 18, 1907.) Carriers must comply fully with the requirements of the law respecting the filing, publication, and taking effect of proposed rates and fares, unless upon application and for good cause shown the Commission, in the exercise of authority conferred upon it, shall allow rates or fares to be changed or withdrawn upon less than thirty days' notice, or by formal order otherwise modify such requirements. No regulation or rule of the Commission is authority to change rates or issue tariffs on less than statutory notice, unless so specifically provided in the rule or regulation.

For good cause, Commission may allow exceptions.

55. JOINT RATE OR FARE GREATER OR LESS THAN SUM OF INTERMEDIATE RATES OR FARES (issued September 15, 1906).—Two or more connecting carriers may establish a joint rate or fare only upon notice of thirty days or under special permission. A joint rate or fare when duly established and in force becomes the only lawful rate or fare for through transportation.

Joint rates or fares only lawful rates or fares for through traffic.

A through rate or fare from point of origin to destination of a shipment or passenger is the lawful rate or fare applicable to that movement, whether the rate or fare be confined to the line of one carrier or be a joint rate or fare applying over the lines of two or more carriers. (See Rules 5 and 36.)

56. REDUCTION OF RATE OR FARE TO EQUAL SUM OF INTERMEDIATE RATES OR FARES (adopted February 13, 1911).—(a) Where a rate or fare is in effect by a given route between any points which is higher than the sum of the intermediate rates or fares between the same points, by the same or another route, and such rate or fare has been in effect thirty days or longer, such higher rate or fare may, until further notice from the Commission, be changed *by reducing the same to the sum of such intermediate rates or fares, but not otherwise*, upon posting and filing with the Commission one day in advance *a supplement to or a reissue of the tariff in which the rate or fare so reduced appears*, which supplement or reissue shall show the reduced rate or fare; shall bear notation that it is effective on less than statutory notice "by authority of Rule 56 of Tariff Circular 18-A;" shall show on title page, or in connection with such item, by identifying references and I. C. C. numbers, the tariffs that contain the factors which make up the new rate or fare; except that, if the rate so reduced is contained in a strictly class rate tariff, the reduced rate will be published in a new commodity tariff or in a supplement to or reissue of a tariff which contains commodity rates and in which all carriers whose lines make up the route over which the rate applies have concurred, and which is issued by the same carrier or agent that issued the tariff which contained the rate so reduced. Such tariff, supplement, or reissue must bear on its title-page, or in connection

Rates or fares higher than sum of intermediate rates or fares.

Reduction on one day's notice.

Reduction of rate or fare must be made in supplement to tariff which contains rate or fare so reduced.

Notation on tariff.

with such item, the notation: "Issued under authority of Rule 56, Interstate Commerce Commission Tariff Circular 18-A. The rate (or rates) hereby reduced appears in ——— Tariff, I. C. C. No. —, item (or page)—, and the factors from which the new rate herein shown as equaling the sum of the intermediate rates are found in ——— Tariff, I. C. C. No. —, item (or page) —, and ——— Tariff, I. C. C. No. —, item (or page) —."

Except when a new commodity rate is established to supersede a higher class rate, this Rule limits the authority to change rates or fares thereunder to changes that are announced in supplements to or reissues of the tariffs in which the rates or fares so reduced appear, and each such supplement or reissue shall show specifically on its title-page the authority under which it is made effective on less than statutory notice and definite and distinct reference to the factors which are used to make up the reduced rate or fare.

(b) Many informal complaints are received in connection with regularly established through rates or fares which are in excess of the sum of the intermediate rates or fares between the same points. The Commission has no authority to change or fix a rate or fare except after full hearing. It is believed to be proper for the Commission to say that if called upon to formally pass upon a case of this nature it would be its policy to consider the through rate or fare which is higher than the sum of the intermediate rates or fares between the same points as *prima facie* unreasonable and that the burden of proof would be upon the carrier to defend such higher through rate or fare.

Note.—Attention is called to the fact that section 4 of the Act, as amended, prohibits a through rate or fare that exceeds the sum of the intermediate rates or fares that are subject to the Act. The term "intermediate rates" as used in said section is interpreted to mean the straight-away or direct-haul rates or fares, and not to include any back-haul charge.

57. NEW ROADS.—On newly constructed lines of road, including branches and extensions of existing roads, local rates and fares, and also joint rates and fares, may be established in the first instance to and from points on such new lines by posting tariffs of such rates or fares issued by the carrier owning or operating such newly constructed lines or by joint agent acting for it under power of attorney FX1 or PX1, and filing the same with the Commission one day in advance. Such tariff must bear notation that it applies to or from points on newly constructed lines to or from which no rates or fares from same points of origin or to same points of destination have applied, and give reference to this rule. Tariffs or supplements to tariffs issued by other carriers establishing rates to or from or via such newly constructed line may be issued only upon statutory notice or special permission for shorter time. It will be the Commission's policy to grant such reasonable permissions as are necessary to give carriers and shippers fullest efficiency of such new lines.

58. REQUESTS FOR PERMISSION TO AMEND TARIFFS ON LESS THAN STATUTORY NOTICE (issued November 16, 1906).—(a) The Act authorizes the Commission, in its discretion and for good cause shown, to permit changes in tariff rates or fares on less than the statutory notice. It is believed that this authority should be exercised only in instances where special or peculiar circumstances or conditions justify it. Confusion and complication must follow indiscriminate exercise of this authority. Applications for permission to change tariffs on less than statutory notice shall be addressed to the Interstate Commerce Commission, and in the following form, on paper 8 by 10½ inches. Such applications must be over signature of the president, vice-president, general traffic manager, assistant general manager, general freight agent, general passenger agent, or a duly authorized attorney and agent, specifying title.

(Name of carrier)

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(Place and date)

Through rate or fare higher than sum of intermediate rates or fares *prima facie* unreasonable.

Rates or fares to points on new lines.

Rates or fares changed on less than statutory notice.

Application to Commission.

Over whose signature.

Form of application by a common carrier for authority to make changes in rates or fares upon less than 30 days' notice.

TO THE INTERSTATE COMMERCE COMMISSION,

WASHINGTON, D. C.

The _____, by _____, its _____,
(Name of carrier) (Name of officer) (Title of officer)

does hereby respectfully petition the Interstate Commerce Commission that it be permitted, under section 6 of the Act to regulate commerce, as amended June 18, 1910, to put in force the following rates (or fares), to become effective _____ days after the filing thereof with the Interstate Commerce Commission:

(State fully the rates (or fares) which it is desired to put into effect, the articles upon which they are to apply, and the points of origin and destination.)

Your petitioner further represents that the said rates (or fares) above mentioned will be published in Supp. No. _____ to Tariff I. C. C. No. _____, and will supersede and take the place of the rates (or fares) on like traffic from and to the points above named which are set in Tariff I. C. C. No. _____ (or supplement) of file with the Commission.

And your petitioner further bases such request upon the following facts, which present certain special circumstances and conditions justifying the request herein made:

(State fully all the circumstances and conditions which are relied upon as justifying the application, and if based upon

rates (or fares) in effect via other lines, specific reference shall be given to the I. C. C. numbers of

the tariffs of such other line or lines.)

(Name of carrier)

By _____
(Name and title of officer)

Subscribed and sworn to before me this _____ day of _____, 19 _____

 Notary Public.

The Commission requests that as far as possible these applications be sent by mail and not by telegraph. Action will be taken only on receipt of the verified application.

(b) (Issued September 29, 1906.) Desire to meet the rates or fares of a competing road or line which has given the full statutory notice of change in rates or fares will not in itself be regarded as good cause for allowing changes in rates or fares on a notice of less than thirty days.

Where full notice has been given by competing carrier.

(c) (Issued March 18, 1907.) A request from one carrier, party to a joint tariff for permission to amend such tariff on less than statutory notice necessarily raises some question of doubt as to the wishes or concurrence of other interested carriers also parties to the tariff. It is desirable and proper that any such permission given by the Commission should affect alike all parties to the tariff that is to be amended under it. The Commission therefore decides:

Amendment of joint tariffs on less than statutory notice.

That when a carrier gives an agent authority to file tariff or tariffs and supplements thereto in its name, place, and stead, or concurrence in tariff or tariffs and supplements thereto which another carrier or its agent may file thereunder, the agent or carrier to whom such authority or concurrence is given has, under the terms of the authority or concurrence, the power and the right to request, in the name and on behalf of the carriers participating in such tariff or tariffs, permission to amend same on less than statutory notice.

Applications by carrier or agent authorized to file the tariff.

Request must come from one who issues the tariff.

Such requests as to joint tariffs must be made by the agent or the carrier that is authorized to file the tariff, and in making them form same as that prescribed for use of individual carrier shall be used, except that the request must state that it is made in the name and on behalf of all carriers that are parties to the tariff and that formal authority to file the tariff, or formal concurrence in the tariff, is on file with the Commission from each of such carriers.

Concurring carriers bound by act of authorized agent.

(d) Request will be signed and verified by the agent or officer who makes it, and every carrier that has, by formal authority or concurrence, made itself a party to such tariff, will be held bound by the act of its agent under such authority or by its concurrence. This Rule will, in so far as it is possible, be applied to tariffs now on file, and will be effective in all cases as to freight tariffs from and after May 1, 1907, and as to passenger tariffs from and after June 1, 1907.

Permission to change rates or fares on short notice limited to emergency or necessity.

(e) This authority will be exercised only in cases where actual emergency and real merit are shown. Clerical or typographical errors in tariffs constitute good cause for the exercise of this authority, but every application based thereon must plainly specify the omissions or mistakes, together with a full statement of the circumstances attending such omission or error and be presented with reasonable promptness after issuance of the defective tariff.

Application of rates or fares in force on other lines unlawful.

59. EQUALIZING RULES OR TARIFFS (issued March 18, 1907).—In the not distant past many carriers issued circulars or tariff rules which in effect and substance stated that that carrier would meet any rate or fare made by a competitor or share in any through rate or fare made by a connecting carrier for the purpose of meeting or protecting any rate or fare via another route or gateway. Those rules plainly intended and contemplated that rates or fares which were not found in that carrier's tariffs should be applied to traffic moving over its lines.

The law makes it clear that no carrier can lawfully apply to transportation over its lines any rate, fare, or charge that is not plainly stated in its own tariffs at that time, and that all such rules as are now referred to and all practices under such rules are unlawful.

Transportation of caretakers in connection with freight.

60. FREE TRANSPORTATION OF PASSENGERS IN CONNECTION WITH SHIPMENTS OF PROPERTY (issued November 6, 1906).—Section 1 of the Act provides that free transportation may be furnished "to necessary caretakers of live stock, poultry, milk, and fruit." This provision in the statute is construed to mean necessary caretakers of live stock, poultry, milk, or fruit that is loaded and ready for movement, or the movement of which is actually contracted for or that is actually in transit, and may include free or reduced-fare transportation for the return of such necessary caretakers. This transportation may be in the form of free pass or reduced-fare transportation, but in any event it must be the same for all under like circumstances and must be published in the tariff governing transportation of the commodity. Tariff may provide that caretaker sent out to return with shipment that is arranged for or that is in transit will be required to pay fare going and that such fare will be refunded if person so sent does return as actual caretaker of shipment for which he is sent. But a tariff rule which provides that if a person goes out over the line with the intention of purchasing live stock and returns within a certain time with a certain number of cars of live stock, the carrier will refund to him the fare paid on outgoing trip is improper and unlawful.

When unlawful.

Includes vegetables, bees in hives, and live fish.

The Commission is of the opinion that the term "fruit" in this connection includes perishable vegetables, and that bees in hives and live fish may be included in the term "live stock" when shipped under conditions that render caretakers "necessary."

Cross references in railroad and express tariffs.

(Adopted May 10, 1909.) When an express company provides in its tariff for free transportation for caretakers in charge of live stock, poultry, milk, or

fruit, and the railroad company over whose lines such express company operates provides in its tariff that such caretakers may be permitted to ride in passenger car, the tariff of the express company and that of the railroad company must give reference to each other.

61 and 62. Pertain to passenger traffic.

63. TRANSPORTATION OF CIRCUS OUTFITS (issued March 18, 1907).—The Act to regulate commerce, amended June 29, 1906, applies to the transportation of circuses and other show outfits, but the Commission recognizes the peculiar nature of this traffic and the difficulty of establishing rates thereon in advance of shipper's request describing the character and volume of the traffic offered, and has therefore entered a general order authorizing carriers to establish rates on circuses and other show outfits by tariff, to become effective one day after filing thereof with the Commission, and relieving them from the duty of posting such tariffs in their stations. Such tariff may consist of a proper title page reading "as per copy of contract attached," and to it may be attached a copy of the contract under which the circus is moved. As far as practicable, general rules or regulations governing the fixing of such rates should be regularly published and filed.

Transportation of circus outfits.

Rates effective one day after filing with Commission.

64. MAXIMUM RATES AND FARES NOT SPECIFIC RATES AND FARES (issued March 18, 1907).—Rule 4 and Rule 34 prohibit including in a tariff any rule or regulations which in any way or in any terms authorizes substituting for any rate or fare named in the tariff a rate or fare found in any other tariff or made up on any combination or plan other than that clearly stated in specific terms in the tariff of which the rule or regulation is a part. These rules are intended to bring about entire discontinuance of tariff rules which provide that rates or fares named in tariff will apply to certain points "as maxima," or that if a combination on some gateway or basing point makes less than the rates or fares named in tariff such combination will apply, or for equalizing or protecting any rate or fare via another line or route or gateway, etc. The intent is that tariffs shall state in specific, clear, and unambiguous terms the rates and fares and their application. (See Rule 5 (b) and Rule 36.)

Rates and fares and their application must be specifically stated.

(Issued January 7, 1908.) Paragraph (d) of Rule 4, and paragraph (c) of Rule 34, provide that a tariff shall contain complete alphabetical indexes of the points from and to which it applies. This is not to be understood as prohibiting the incorporation in a tariff of a rule providing for the affirmative and definite application of the rates or fares named in that tariff to or from points not *indexed* and which are directly intermediate on the same line with more distant points that are indexed.

Rates and fares to or from intermediate points.

Tariffs may provide for the affirmative and definite application of commodity rates by the incorporation therein of a rule substantially as follows:

From any point of origin or to any point of destination from or to which a rate on a specific commodity is not named in this tariff, located on the same line between any two points of origin or destination from or to which rates are named on the same commodity, the rate on such commodity from or to such intermediate point will be the same as the rate from or to the next more distant point from or to which a rate is named herein; provided no specific rate on the same commodity from the same point of origin to the same point of destination is published in some other tariff.

(Issued March 18, 1907.) In every instance where there is a *specific* rate or fare from points of origin to point of destination, it must be applied to through shipments or passengers, regardless of possible lower combinations. (See Rules 5, 36, and 55.)

Specific through rate or fare must be invariably applied.

65. CLASSIFICATION OF HIGH EXPLOSIVES (issued May 29, 1907).—Some freight classifications provide that high explosives will be "taken only by special

"Taken only by special agreement" not sanctioned.

agreement." Carriers are prohibited from carrying any traffic except under tariffs provided in the manner prescribed by law. It follows, therefore, that no traffic or transportation can be the subject of special agreement between carrier and shipper except as provided in section 22 of the Act. If it is impracticable to classify high explosives in the classification, the statement must not be "taken only by special agreement," but must be "subject to regulations and rates in tariffs of the individual carrier;" and each carrier must provide in its tariffs the rates and regulations applicable to such traffic. (See Rule 4 (h).)

Minimum carload weight.

66. MINIMUM CARLOADS.—(a) Where a rate for carload shipment is relatively lower than less-than-carload rate, the reasonableness of a minimum carload weight to which carload rate will apply is recognized, as is also the desirability of highest efficiency both in the movement and the loading of cars.

Minimum carload weights for cars of varying dimensions or capacities.

Carriers provide cars of varying dimensions and capacities, and they provide minimum weights for the several kinds of cars based upon those dimensions and capacities. At times when transportation facilities are inadequate to supply the demand upon them it is frequently difficult or impossible for the carrier to furnish a shipper with a car of the dimensions or capacity desired by him, although the carrier has in its tariffs provisions for the use of such car. Manifestly it is not equitable or proper to require the would-be shipper to pay additional transportation charges for the privilege of using a car of different dimensions or capacity from that which would suit his shipment or forego entirely his desire to ship.

Some carriers provide elastic rules which properly permit the use of cars of different dimensions or capacities when they are furnished by the carrier in lieu of those desired or ordered by the shipper. Other carriers do not so provide, and as a result many instances arise in which the initial carrier under such provision, furnishes the shipper with cars at its convenience and connecting carriers that have not adopted similar provisions, assess higher charges in accordance with their tariffs, thus imposing upon the shipper a wholly unexpected, and, in the view of the Commission, unreasonable, charge.

Capacity of car furnished greater than that of car ordered.

Capacity of car furnished less than that of car ordered.

(Adopted December 7, 1909.) The Commission believes it to be the duty of every carrier to incorporate in its tariff regulations a rule to the effect that when carrier can not promptly furnish car of capacity or dimensions desired by the shipper, and for its own convenience does provide a car of greater capacity or dimensions than that ordered, such car may be used on the basis of the minimum carload fixed in the tariffs for cars of the dimensions or capacity ordered by the shipper, *provided the shipment could have been loaded into or upon car of the capacity or size ordered*; and that if a car of smaller capacity than that ordered by the shipper is furnished, it may be used on the basis of actual weight when loaded to its full visible capacity, or that that portion of the shipment which can not be loaded into the smaller car will be taken in another car and the shipment treated as a whole on the basis of the minimum fixed for the car ordered by the shipper; and that if the carrier is unable to furnish a car of large dimensions, ordered by shipper, it may furnish two smaller cars which may be used on the basis of the minimum fixed for the car ordered; it being understood that shipper may not order a car of dimensions or capacity for which a minimum is not provided in the carrier's tariffs.

In all such cases the capacity of the car ordered, the date of such order, the number, initials, and capacity of the car furnished should be stated on the bill of lading and the carrier's waybill.

In case of controversy between shippers and carriers caused by absence of such rule from tariffs which provide graduated minima for cars of different sizes, the Commission will regard such tariffs as *prima facie* unreasonable.

It is the duty of carriers to provide reasonable facilities for transportation, and if they can not furnish equipment to move the carloads provided for in their regulations it is clearly their duty to provide some other method of transporting as one shipment, and at the rate named therefor, such carload weight when tendered by shipper.

(b) (Adopted May 12, 1908.) The minimum weight upon which carload rate is based is a part of the rate, because the charges on the shipment are determined by such minimum weight. The publication, posting, and filing of the rate and of the minimum weight are therefore equally necessary, and it is also equally necessary that both be observed.

Where two or more carriers publish a joint through rate, they must publish in connection therewith, one carload minimum weight for the through movement under that rate. This ruling is not to be understood, however, as condemning the publication in joint tariffs and the use of through rates made up in combination on a specific base point, and providing one minimum weight in connection with the specified portion of the rate up to the base point and a different minimum weight in connection with the specific portion of the rate beyond the base point.

Through carload minimum to be provided in tariff.

Carriers' mechanical departments have rules against loading to its full capacity a new car on its first trip. This rule is understood to generally provide that such car shall not on its first trip be loaded to more than 75 per cent. of its capacity. The Commission is requested to pass upon the question of conflict between the tariff minimum and the mechanical department's rule.

Light loading of new cars on first trip.

All new cars are now of much greater capacity than those of a few years ago, and carload minima have also been increased. The number of commodities that are shipped in closed cars and that ordinarily are loaded to the full capacity of the car are comparatively few. Except in times of actual car shortage, there would seem to be but little difficulty in selecting for such new cars loading that would bring no conflict between the tariff and the mechanical department's rule. The tariff rule is the one which the carrier is by law obligated to observe and maintain. It is not possible to authorize setting aside the tariff requirement without creating or making possible discriminations. There is no objection to incorporating in the tariff a rule that the minimum weight applicable to a new car on its first loading shall be a certain percentage of its capacity or of the minimum fixed in the tariff. We adhere to the view that the rule governing minimum weight shall be contained in a lawful tariff and that it must be applied and observed.

67. MOVEMENT OF SHIPMENTS REFUSED BY CONSIGNEES OR DAMAGED IN TRANSIT (issued June 3, 1907).—(a) In one form or another many carriers provide for the return free or at reduced rates, or the reconsignment under through rate from point of origin, of shipments that are damaged in transit or are refused by consignees. In answer to request for ruling, the Commission expresses the opinion that in a nondiscriminatory way and within reasonable limits such rule is not unlawful or improper. Care should be taken to preserve the distinction between shipments in which the carrier has no interest except the collection of the transportation charges and which are reconsigned or returned purely out of consideration for the interests of the owner of the shipment, and shipments which, because of injury or damage in transit, are left on the carrier's hands and in which it has an interest to the extent of the transportation charges and the value of the shipment.

Free carriage or reduced rates or reconsignment at through rate of shipments damaged in transit or refused by consignees.

(Adopted November 9, 1908.) A rule providing that shipments which are refused by consignee may be reconsigned and forwarded, under application of through rate from point of origin to final destination, either with or without the exaction of a reconsignment charge, is permissible. Where tariff provides for return

Shipments refused by consignee.

of shipments at reduced rates, the tariff rule must be strictly complied with. Such tariff rule should provide that waybill covering return movement and shipping receipt must show reference to original outbound shipment and waybill.

Shipments damaged
in transit.

(b) (Adopted June 14, 1909.) A rule providing for the reconsignment or return free or at reduced rates of articles damaged in transit is not improper if it is so framed and applied as to prevent abuses or improper practices under it. The practice of returning at reduced rates articles that have been delivered into the possession of consignees and have become shopworn or have gotten into a state of disrepair through use is neither proper nor free from unjust discrimination. A rule according reduced rates on return shipments is proper only in so far as it applies to the return of shipments that are received by the consignee in bad order or are refused by consignee without examination. As to shipments that are not in closed packages and thus are open to immediate inspection, the rule should provide that in order to secure reduced rates on return movement the goods shall not have left the possession of the carrier before such claim is made. As to goods that are in closed packages, the rule should provide that in order to secure reduced rates on return movement such goods must be returned to the carrier within ten days.

Rules must be
published and applied
only via route over
which shipment moved.

(c) (Issued June 3 1907.) Such rules must be in tariffs and must be applied without discrimination and should provide that rule for return of shipments applies only via the route and line over which the shipment moved. Uniformity among carriers in rules and practices in such matters as these is desirable and contributes to thorough understandings and harmony between carriers and shippers.

Damaged in transit
shipments left on hands
of carrier may be
hailed over its lines as
its own property
would be.

(d) Where a shipment is refused and is left on the hands of the carrier, it is believed that the carrier, when it recognizes its responsibility for the value of the shipment and the transportation charges on same, may haul it for itself to such point on its own lines as offers the best opportunities or facilities for disposing of it to advantage, just as it may haul property of its own.

Old system of con-
currences which was
almost universally fol-
lowed, and which was
universally accepted
and recognized by
carriers.

68. RESPONSIBILITIES OF CARRIERS UNDER TARIFFS (issued November 15, 1907).—(a) Prior to May 1, 1907, the date upon which the Commission's freight tariff rules became effective, no uniform or definite practice or rule was followed by carriers in regard to concurrence in joint tariffs. The plan most generally followed was for each carrier to file with the Commission a statement that it thereby concurred in any tariff, issued by any carrier, and in which it was shown as a participant, except when it gave to the Commission specific notice of non-concurrence in particular issues. Some carriers, however, did not file such a declaration, but accepted traffic and settlements under joint tariffs in which they were shown as participants, although no concurrence therein had ever been given.

The general, if not universal, understanding and practice was that every carrier had a right to issue tariffs containing joint through rates or fares over the lines of other carriers named therein as participants, to note therein that the carriers named as participants would certify their concurrence to the Interstate Commerce Commission, and for all to use such tariffs except in cases where carriers specifically certified to the Commission their non-concurrence in certain publications.

To now undertake to check out and follow down definite and actual concurrence of carriers in tariffs issued prior to May 1, 1907, would be a hopeless task; and to declare unlawful all tariffs, and participation therein, which were not so definitely and actually concurred in, other than by use thereof, would be to overthrow practically all such joint tariffs and leave transportation in chaos.

Some carriers have sought to evade liabilities under such joint tariffs on the plea that they never concurred therein, although in each instance so far brought

to notice, such carrier is shown to have accepted traffic and collected charges thereon in accordance with such tariff up to, and in some instances subsequent to, date of filing notice of non-concurrence.

(b) Such complications are impossible as to tariffs subsequent to May 1, 1907, if the Commission's tariff regulations are observed. The Commission can not undertake to now excuse carriers from responsibilities placed upon them by tariffs that were issued prior to May 1, 1907, and in which they are named as participants in conformity with customs that were followed so generally and for so long a time as to render them binding upon those who did not give notice of non-concurrence, except in accordance with and subsequent to filing of specific notices of non-concurrence.

The Commission's tariff regulations require that the carrier or joint agent that issues a joint tariff shall, before issuing same, have secured the definite and affirmative concurrence of every carrier shown therein as a participant, and shall show in connection with the name of each participating carrier the form and number of the instrument by authority of which that carrier is made a party to the tariff.

(c) A carrier has no means of preventing another carrier from naming it as party to a joint tariff without proper authority so to do, or of preventing another carrier from exceeding the authority conferred by a limited concurrence. It can not, however, be bound by such unauthorized act, and it is its obvious duty to refuse to recognize or apply any such unlawful issue. It should also at once call attention of the Commission and of the one that issued the tariff to such erroneous action.

(d) If one or more carriers are, without proper authority, so shown as participating in any tariff and other carriers are lawfully shown as parties thereto, the use of the publication is unlawful as to the carriers that are named as parties thereto without proper authority and lawful as to those that are parties to it under proper authority. The carrier over whose line shipments or passengers are sent under a joint tariff is bound by the terms of that tariff if it has lawfully concurred therein, and, if it has not lawfully concurred therein, may not accept earnings in accordance therewith, but must demand for the service performed its lawful earnings according to its lawful tariffs.

(e) Responsibility and liability for the unlawful incorporation of any carrier in a tariff, or for exceeding the authority conferred by a limited concurrence, will rest wholly upon the carrier that issued the tariff; or, if a tariff is issued by a joint agent and attorney for two or more carriers, will rest upon each of his principals that accepts and forwards the business under that tariff. Such responsibility and liability will be measured by the difference between the charges under the tariff as it is published, filed and posted, and as it would have been if no carrier had been improperly named as party thereto, or if the authority conferred by the concurrence of a participating carrier had not been exceeded.

(f) In passing upon a complaint of overcharge, or demand for payment of undercharge, growing out of improper or unlawful inclusion of any carrier in the list of participating carriers, or of exceeding the authority conferred by a limited concurrence, in the tariff under which the business was accepted and forwarded, the Commission will apply the principles above stated.

(g) By its Special Order No. 3, of March 2, 1909, the Commission required that all freight tariffs which were on file prior to May 1, 1907, and as to which specific participation and concurrences were not shown as required by the Commission's tariff regulations, should, on or before June 1, 1909, be canceled or be supplemented so as to show specific participation and lawful concurrence of every carrier that uses or participates in such tariff subsequently to June 1, 1909. It declared that the use of such tariffs as to which the terms of the Special Order

Under tariffs filed prior to May 1, 1907, carriers are responsible, in accord with customs then generally followed, except when and after they filed specific notice of non-concurrence in certain issues.

Carrier not bound by being named as participant in tariff without its authority.

Tariff lawful as to carriers shown as participants under lawful authorizations and unlawful as to carriers named as participants without lawful authorities.

Responsibility for unlawful incorporation of a carrier in a tariff.

Policy of Commission on complaints.

Status on and after June 1, 1909, of freight tariffs filed prior to May 1, 1907.

had not been complied with on or before June 1, 1909, would, after June 1, 1909, be unlawful and that prosecution will follow such use.

The Commission's ruling of June 14, 1909, adding to above ruling the following, is hereby *rescinded*:

If, however, such a tariff not having been canceled is hereafter supplemented on statutory notice to show the list of participating carriers and their lawful concurrences therein, such tariff may, subsequent to the lawfully effective date of such supplement, be lawfully used by the carriers so shown as participating and concurring therein.

69. Pertains to Passenger Traffic.

Withdrawal of filed tariffs not permitted.

70. WITHDRAWAL OF FILED TARIFFS NOT PERMITTED.—Not infrequently the Commission is requested to return to carriers tariff publications which have been received and filed by the Commission in the ordinary course of business. Such requests are usually based on the desire to substitute some corrected or changed publication for the one that has been filed. Manifestly it would be improper for the Commission to permit such substitutions or to surrender any tariff publication duly and properly received and filed by it, unless such surrender is caused by rejection of such publication by the Commission because of illegality or irregularity in connection therewith. To surrender publications duly filed and permit the substitution of others would involve a species of falsification of the records which could not be permitted.

Ocean carriers—when not subject to the act.

71. OCEAN CARRIERS—EXPORT AND IMPORT TARIFFS.—Ocean carriers between ports of the United States and foreign countries *not adjacent* are not subject to the terms of the Act to regulate commerce; nor to the jurisdiction of the Commission.

Export and import tariffs.

(a) (Adopted December 2, 1912.) The inland carriers of traffic exported to or imported from a foreign country not adjacent must publish their rates and fares to the ports and from the ports, and such rates or fares must be the same for all, regardless of what ocean carrier may be designated by the shipper or passenger.

In order to avoid controversies and questions, tariffs hereafter issued containing rates applicable to export or import traffic shall specify by inclusion or exclusion the countries to or from which shipments to which such rates are applicable shall move, whether such countries are, or are not, adjacent to the United States.

In the interest of clearness, the tariffs should also specify whether or not shipments to or from Cuba, the Philippine Islands, Porto Rico or the Canal Zone are included. For convenience, and without regard to the political status and relation of the Philippines, Porto Rico and the Canal Zone to the United States, they, together with Cuba, are for these purposes to be classed with foreign countries.

Through rates or fares may be shown.

(b) As a matter of convenience to the public, said carriers may publish in their tariffs such through export or import rates or fares to or from foreign points as they may make in connection with ocean carriers. Such tariffs must, however, distinctly state the inland rate or fare as above provided, and need not be concurred in by the ocean carrier, because concurrence can be required from, and is effective against, only carriers subject to the Act.

Steamship charges may be shown.

(Adopted June 28, 1909.) It is permissible for a carrier to state its inland rates or fares, which must be open to all alike, regardless of what ocean carrier may be designated by the shipper or passenger, and regardless of the nationality or employment of the person transported, and in the same connection to show the additional steamship charges which go to make up through rates or fares to or from foreign destinations.

Evidence of steamship passage in connection with inland fares.

If the inland portion of such fares is different from the carrier's domestic fares, and if such inland proportionals are offered only in connection with travel to or from a foreign country, it is entirely proper and necessary that the inland

carrier shall require evidence of steamer passage having been paid for before granting to any person its inland proportional fare which its tariff offers in connection with such journey, and to note on separate tickets that may be issued for the inland and the ocean portions of such trip cross references to the other portions of such tickets, and to require satisfactory evidence to be presented to conductor in order to make valid such inland proportional ticket.

(c) Whichever plan of publishing such rates and fares is followed, the tariffs must be filed and posted, and may be changed only upon statutory notice or under special permission for shorter time, except that, in consideration of unusual and special circumstances surrounding the movement of traffic exported to or imported from foreign countries not adjacent to the United States, and which moves through ports of the United States or Canada on the Pacific Ocean, as to said traffic and confined to tariffs which contain only rates applicable thereto, the Commission by its order of October 24, 1908, authorized carriers to make changes in said rates upon notice to the Commission and to the public in manner prescribed by law of three days as to changes which effect reductions in rates or charges, and like notice of ten days as to changes which effect increases in rates or charges. This authority is intended to include passenger fares to or from ports of the United States or Canada on the Pacific Ocean in connection with passage tickets to or from foreign countries not adjacent to the United States, where shown in tariffs that are confined to such fares. Tariffs issued upon short notice under authority of this Rule must bear notation: "Issued under authority of Rule 71, Interstate Commerce Commission Tariff Circular 18-A."

Must be filed and posted.

Permission for changes on less than statutory notice, via Pacific Ocean ports.

(d) Export and import traffic may be forwarded under through billing, but such through billing must clearly separate the liability of the inland carrier or carriers and of the ocean carrier, and must show the tariff rate of the inland carrier or carriers.

Through export and import billing.

72. TARIFFS TO OR FROM POINTS IN ADJACENT FOREIGN COUNTRIES (adopted November 22, 1909).—Through rates and fares from points in the United States to points in foreign countries adjacent thereto, and through rates and fares from points in adjacent foreign countries to points in the United States, are a great convenience, and the Commission therefore desires to permit and encourage the publication and filing of such through rates and fares under lawful and proper conditions. Therefore, and until further order of the Commission:

A joint tariff naming rates or fares from a point in the United States to a point in Mexico or in Canada; from a point in Mexico or in Canada to a point in the United States; from a point in Mexico through the United States to a point in Canada; from a point in Canada through the United States to a point in Mexico; from a point in Mexico through the United States to a point in Mexico; from a point in Canada through the United States to a point in Canada; from a point in the United States through Mexico or through Canada to a point in the United States—must be concurred in, in form prescribed in these regulations and without reservation by all lines that are parties to the through rates concurred in, in form prescribed in these regulations and without reservation by all lines that are parties to the through rates or fares and that participate in transportation thereunder; or, a statement of the divisions of the rates or fares accruing to the roads in the United States to or from the border must be incorporated in the tariff or be filed with the Commission together with and at the same time the tariff itself is filed.

Concurrences required in tariffs to or from Canada or Mexico.

Divisions must be filed.

(Adopted March 7, 1910.) The purpose of the above rule, requiring the domestic carriers to publish their divisions of rates and fares to and from Canada or Mexico, is to give to this Commission definite information as to their lawful

earnings, and is not intended as a means of exercising any jurisdiction over carriers in adjacent foreign countries.

Permission for changes on less than statutory notice in rates or fares from a point in Canada through the United States to a point in Canada.

(Adopted October 9, 1911.) Fares on freight traffic from a point in Canada through the United States to a point in Canada may be changed upon a notice of 30 days as to advances in rates, and 3 days as to reductions in rates, given to the Commission and the public in manner required by law, provided such freight traffic moves in bond and that no transit or stop-over privilege is allowed thereon within the United States, and that tariff so states; and provided further, that such rates be published in tariffs which contain only rates on traffic that has neither origin nor destination in the United States.

Fares from a point in Canada through the United States to a point in Canada may be changed upon like notice, provided no stop-over privilege is allowed thereon within the United States and that tariff so states; and provided further, that such fares be published in tariffs which contain only fares that have neither origin nor destination in the United States.

Each tariff publication in which changes in rates are made upon short notice under the terms of this Rule shall bear on its title page the notation: "Issued under authority of Rule 72, Interstate Commerce Commission Tariff Circular 18-A."

73. Pertains to Passenger Traffic.

Reconsignment.

74. RECONSIGNMENT PRIVILEGES AND RULES (adopted May 5, 1908).—(a) Usually the combination of intermediate rates is higher than the through rate. Frequently a shipper desires to forward a shipment to a certain point and have the privilege of changing the destination or consignee while shipment is in transit or after it arrives at destination to which originally consigned, and to forward it under the through rate from point of origin to final destination. Many carriers grant such privilege, and generally make a charge therefor.

The privilege is of value to the shipper, and in order to avoid discrimination, it is necessary for carrier that grants such privilege to publish in its tariff that fact, together with the conditions under which it may used and the charge that will be made therefor. Such rules should be stated in terms that are not open to misconstruction.

Change of destination is a reconsignment, unless otherwise provided in tariff.

(b) Some carriers do not count a change of consignee which does not involve a change of destination as a reconsignment, while others do consider it a reconsignment and charge for it as such. The Commission holds the view that, without specific qualification, the term "reconsignment" includes changes in destination, routing, or consignee. If carrier wishes to distinguish between such changes in its privileges or charges, it must so specify in its tariff rules. Reconsignment rules and charges must be reasonable, and a charge that would be reasonable for a diversion or change of destination might be unreasonable when applied to a simple change in consignee which did not involve change in destination or more expensive delivery.

Publish, post, and file demurrage charges.

75. DEMURRAGE ON INTERSTATE SHIPMENT (adopted May 12, 1908).—The Act requires that carriers shall publish, post, and file "all terminal charges * * * which in any wise change, affect, or determine * * * the value of the service rendered to the passenger, shipper, or consignee," and all such charges become a part of the "rates, fares and charges" which the carriers are required to demand, collect and retain. Such terminal charges include demurrage charges.

Demurrage on interstate shipments within jurisdiction of Interstate Commerce Commission.

(a) On March 16, 1908, the Commission decided that demurrage rules and charges applicable to interstate shipments are governed by the Act to regulate commerce, and therefore are within its jurisdiction and not within the jurisdiction of State authorities. Any other view would open a wide door for the use of such rules and charges to effect the discrimination which the Act prohibits.

Tariffs must be observed.

Demurrage rules and charges as published and filed must be observed as strictly as transportation rules and charges. (The Commission has approved, but not prescribed, the Uniform Demurrage Code, as adopted by the National Association of Railway Commissioners.)

*76. SUBSTITUTING TONNAGE AT TRANSIT POINT (adopted June 29, 1909).—A milling, storage, or cleaning-in-transit privilege can not be justified on any theory except that the identical commodity or its exact equivalent, or its product, is forwarded from the transit point under the application of the through rate from original point of shipment. It is, therefore, not permissible to forward from transit point on transit rate commodity that did not move into that transit point on transit rate, or to substitute a commodity originating in one territory for the same or like commodity moving into transit point from another territory, or to make any substitution that would impair the integrity of the tariff rate or rates. It is not practicable to require that the identity of each carload of grain, lumber, salt, etc., be preserved, but it is not lawful to substitute at the transit point any commodity of a different kind from that which has moved into such transit point under a transit rate or rule. That is to say, oats or the products of oats may not be substituted for corn, corn or the products of corn for wheat, nor wheat or the products of wheat for barley, nor may shingles be substituted for lumber, nor lumber for shingles, nor may rock salt be substituted for fine salt, nor fine salt for rock salt; likewise, oak lumber may not be substituted for maple lumber, nor pine lumber for either oak or maple, nor may hard wheat, soft wheat, or spring wheat be substituted either for the other. These illustrations are given not as covering the entire field of possible abuses, but as indicating the view which the Commission will take of such abuses as they arise.

Substituting tonnage at transit point.

To the end that abuses now existing at transit points may be eliminated, carriers will be expected to conform their transit rules and their billing to the suggestions of this rule. In the event of the failure of any carrier so to do, reductions of legal rates caused by transit abuses will be regarded as voluntary concessions from legal rates. (See *In the matter of Substitution of Tonnage at Transit Points*, 18 I. C. C. Rep., 280.)

77. PUBLISHING AND FILING TARIFFS UNDER AMENDED FOURTH SECTION OF THE ACT (adopted January 12, 1914).—(a) If tariffs containing commodity rates applicable from points of production provide for their application from intermediate points not named, it would be necessary to post those tariffs at every intermediate point, although such shipment may never be made from a point not specifically named. If such tariffs do not provide for application from intermediate points, they would conflict with the amended fourth section of the Act whenever the class rate or a combination from an intermediate point exceeds the commodity rate from a more distant point.

Publishing and Filing tariffs under Fourth Section of Act.

Ordinarily, rates to intermediate points of destination not named in the tariff can properly and should be provided for by a clause in the tariff authorizing the application of its rates to intermediate points of destination (see Rule 68), but there may be instances where the intermediate application of rates is impracticable or where conflicting rates would result from the establishment of such intermediate application.

Tariffs should not contain volumes of unnecessary rates, and it is undesirable to require the posting of large numbers of tariffs at points from which no shipments are likely to move. Therefore, until further ordered, carriers may file tariffs containing commodity rates applicable from known points of production or to

Commodity tariffs need not apply from or to intermediate points.

* This rule canceled February 10, 1913, as result of the Transit Case, 26 I. C. C., 204.

Notation on commodity tariff applying only from points of production.

known points of consumption without making such rates applicable from or to all intermediate points. Each such tariff shall bear on its title-page the following notation:

"By authority of Rule 77 of Interstate Commerce Commission Tariff Circular No. 18-A, this tariff (these rates) is not (are not) made applicable from (or to) all intermediate points. Upon reasonable request therefor, rates which will not exceed those in effect from (or to) more distant points will, under authority granted by the Interstate Commerce Commission, be established from (or to) any intermediate point hereunder, upon one day's notice to the Commission and to the public."

Permission to establish commodity rates from intermediate points on short notice.

In observance of the foregoing tariff provision, carriers may, on one day's lawful notice to the Commission and to the public, extend the application of the rates shown in the tariff by establishing commodity rates from or to intermediate points which do not exceed the rates from or to the more distant points on same line or route, provided no increase is thereby made in any existing rate or charge.

Notation on supplement.

A tariff or supplement containing commodity rates issued upon short notice under authority of paragraph (a) of this Rule must bear on its title page, or in connection with the item containing the rate, the following notation:

"Issued under authority of Rule 77 (a) of Interstate Commerce Commission Tariff Circular No. 18-A. The rate from (or to) the more distant point appears in ——— tariff, I. C. C. No. —, item (or page) —."

When relief from the long and short haul provision of the fourth section of the Act has been granted.

(b) When the Commission has issued an order granting to a carrier authority to depart from the provisions of the amended fourth section of the Act and to charge higher rates or fares for shorter than for longer distances over the same line or route, the title page of each tariff issued and filed under such authority must bear the following notation:

Notation on tariff.

"This tariff contains rates (or fares) that are higher for shorter distances than for longer distances over the same route; such departure from the terms of the amended fourth section of the Act to regulate commerce is permitted by authority of Interstate Commerce Commission Fourth Section Order (or Orders), as indicated by individual items herein."

Reference to be made in tariff to Fourth Section Orders.

In connection with the item or items containing the rates or fares as to which such authority has been granted, specific reference to the Commission's Fourth Section Order number and date thereof must be given, except that in instances where all of the rates or fares in the tariff or supplement are covered by one Fourth Section Order, reference to the number and date thereof may be upon the title page of the publication. When a general Fourth Section Order is referred to, the particular section thereof granting such authority must be shown in addition to the Order number.

When relief from combination provisions of fourth section of the Act has been granted.

(c) When the Commission has issued an order granting to a carrier authority to depart from the provisions of the amended fourth section of the Act and to charge rates or fares higher than the aggregate of the intermediate rates or fares subject to the Act, the title page of each tariff issued and filed under such authority must bear the following notation:

Notation on tariff.

"This tariff contains rates (or fares) that exceed the sums of the intermediate rates (or fares) subject to the Act. Such departure from the terms of the amended fourth section of the Act to regulate commerce is permitted by authority of Interstate Commerce Commission Fourth Section Order (or Orders), as indicated in individual items herein."

Reference to be made in tariff to Fourth Section Orders.

In connection with the item or items containing the rates or fares as to which such authority has been granted, specific reference to the Commission's Fourth

Section Order number and date thereof must be given, except that in instances where all of the rates or fares in the tariff or supplement are covered by one Fourth Section Order, reference to the number and date thereof may be upon the title page of the publication.

(d) Nothing in this Rule may be construed as waiving any of the provisions of the amended fourth section of the Act to regulate commerce.

This Rule no waiver of amended fourth section of Act.

78. (Adopted August 26, 1912).—Rates on freight traffic and passenger fares from a point in the Territory of Alaska to another point in the Territory of Alaska, or between points in said Territory, may be changed upon notice of 10 days as to *reductions* in rates or fares given to the Commission and to the public, in manner required by law. As to advances in rates or fares, full statutory notice of changes must be given to the Commission and to the public in manner required by law, unless shorter time is allowed in special cases by special permission of the Commission (see Rule 58).

Permission for changes on less than statutory notice in rates and fares between points in Alaska.

Each supplement to a tariff, or each tariff publication in which reductions in rates or fares are made on less than statutory notice under authority of this Rule, shall bear on its title page the notation, "Issued under authority of Rule 78, Interstate Commerce Commission Tariff Circular 18-A."



NOTICE

The printing of Conference Bulletin No. 7 is issued under date of November 1, 1917, to correct errors in the first issue, under date of August 1, 1917.

THE Interstate Commerce Commission CONFERENCE RULINGS

EXPLANATORY NOTE

The rulings of the Commission in conference are announced informally from time to time through the public press and are later edited and issued in this form for the information of shippers, carriers, and others interested in transportation matters. The rulings express the views of the Commission on informal inquiries involving special facts or requiring an interpretation and construction of the law, and are to be regarded as precedents governing similar cases. This bulletin contains all the rulings promulgated by the Commission since it adopted the practice of publishing them, and takes the place of previous bulletins.

It will be observed that in the light of a wider knowledge of the subjects involved some of the rulings have been withdrawn, while others have been modified and restated in later rulings. In such instances the text of the original ruling has been omitted, while the title and number have been retained with annotations directing attention to the development of the principle in the subsequent ruling.

For convenience of reference it is suggested that conference rulings be cited in briefs and correspondence in this form: "*Conf. Ruling—*," giving the number of the ruling, it being unnecessary to refer also to this bulletin by its number. Where the ruling consists of lettered paragraphs, as for example ruling 220, the particular paragraph may be cited in this form: "*Conf. Ruling 220b.*"

INTERSTATE COMMERCE COMMISSION CONFERENCE RULINGS

(Conference Rulings Bulletin No. 7)

1. **PASSES TO CARETAKERS.** (Nov. 4, 1907.)—An employee of a produce company was granted a pass for the purpose of going to a point on the carrier's lines and returning as caretaker of a carload of bananas. He was not able to secure a return shipment: *Held*, That the carrier must collect the full fare. (See ruling 37.)

2. **TARIFFS DISTINGUISHING BETWEEN SHIPMENTS HANDLED BY STEAM AND ELECTRICAL POWER.** (Nov. 4, 1907.)—An amendment to tariff provided: "The above rates will only apply on shipments handled by steam power and will not apply when handled by electrical power": *Held*, That the limitation of the rates to shipments handled by steam power is unlawful and must be eliminated from the tariff. (See ruling 34.)

3. **COLLECTION OF UNDERCHARGES.** (Nov. 4, 1907.)—Restated in ruling 314.

4. **RATES ON NEW LINES.** (Nov. 11, 1907.)—Rule 44 of Tariff Circular No. 14-A, providing that rates may be established in the first instance on "new lines" without notice, was intended to apply to newly constructed lines only. (See Rule 57, Tariff Circular 18-A.)

5. **FREE STORAGE CREATING DISTRIBUTING POINT FOR PRIVATE INDUSTRY.** (Nov. 11, 1907.)—Its attention being called to a tariff which, in effect, created a distributing point for a special industry by granting it free storage at that point, either in its own or the carrier's warehouses, and practically without limit as to time, the merchandise when shipped out to go on balance of through rate, the Commission expressed its disapproval.

6. **RECONSIGNMENT RULE WILL NOT BE GIVEN RETROACTIVE EFFECT.** (Nov. 11, 1907.)—A shipment consigned to one point was reconsigned en route to another, the tariff containing no reconsignment privilege. As a consequence, local rates to and from the reconsigning point were applied and made higher than the through rate: *Held*, Under subsequent tariff that did not reduce rates, but incorporated a reconsignment privilege, that the benefit of such privilege could not be applied retroactively to a previous shipment, and can not be accepted as the basis for a refund on special reparation docket. (Extended in application by rulings 77 and 166. See *Cady Lumber Co. v. M. P. Ry. Co.*, 19 I. C. C., 13; *Henry v. Eastern Ry. Co.*, 20 I. C. C., 172; and *Swift & Co. v. M. & O. R. R. Co.*, 39 I. C. C., 701.)

7. **COMMISSIONS ON IMPORT TRAFFIC.** (Nov. 18, 1907.)—The granting by carriers of commissions to persons acting as consignees on import traffic is a practice that can not be sanctioned. (See rulings 221a, 300, and 444.)

8. **DEMURRAGE CHARGES RESULTING FROM STRIKES.** (Nov. 18, 1907.)—The Commission has no power to relieve carriers from the obligations of tariffs providing for demurrage charges, on the ground that such charges have been occasioned by a strike. (See note to ruling 242, and ruling 358.)

9. **FREE TRANSPORTATION BY CARRIERS FOR ONE ANOTHER.** (Nov. 18, 1907.)—(Restated in ruling 225b.)

10. **STATUTE OF LIMITATIONS.** (Dec. 2, 1907.)—Claims filed with the Commission since August 28, 1907, must have accrued within two years prior to the date when they are filed; otherwise they are barred by the statute. Claims filed on or before August 28, 1907, are not affected by the two years' limitation in the act. (See rulings 220j, 306, and 307; also *Fels & Co. v. P. R. R. Co.*, 23 I. C. C., 487.)

11. **REDUCTION OF RATE WHEN FORMAL COMPLAINT AGAINST IT IS PENDING.** (Dec. 2, 1907.)—(Restated in ruling 14.)

12. **TARIFF THAT FAILS TO STATE THE DATE OF ITS EFFECTIVENESS IS UNLAWFUL.** (Dec. 2, 1907.)—A tariff was filed without naming a date on which it was to take effect. Does it ever become effective, and if so, when: *Held*, That the tariff was unlawful and has never taken effect. (See rulings 73 and 100b.)

13. **TARIFFS NOT CONCURRED IN ARE UNLAWFUL.** (Dec. 2, 1907.)—A properly accredited chairman of a tariff committee published tariffs for certain carriers for which he was the only constituted attorney-in-fact for that purpose. A carrier declining to concur in his tariffs put a new cover on

them and filed them as its own tariffs without securing the concurrences of the other carriers named therein: *Held*, That the tariffs so adopted were unlawful and could not be used by the carrier.

14. MAINTENANCE OF RATE REDUCED AFTER COMPLAINT FILED. (*Jan. 6, 1908.*)—On December 2, 1907, it was decided that when a rate is reduced after answer has been made and before hearing, the report disposing of the proceeding shall carry with it an order directing the defendant to maintain that rate as a maximum for not less than two years. On December 6 it was decided that orders in special reparation cases shall include a clause providing that the new rate or regulation upon the basis of which reparation is granted shall be maintained for a period of at least one year.

It is now agreed that the two years so required in orders upon formal complaints and the one year in orders in special reparation cases shall run from the date of the order and not from the date when the reduced rate or new regulation became effective. (See rulings 130, 200a, and 396.)

15. DELIVERING CARRIER MUST INVESTIGATE BEFORE PAYING CLAIMS. (*Jan. 6, 1908.*)—(Restated in ruling 462.)

16. DELIVERING CARRIER MUST COLLECT UNDERCHARGES. (*Jan. 6, 1908.*)—Even though an undercharge results from an error in billing by the initial carrier or a connection, the delivering carrier must collect the undercharge. The legal expense attending its efforts to collect undercharges in such cases would seem to be a valid claim against the carrier through whose fault the mistake was made. (Reaffirmed by ruling 156, see also ruling 314; also *Western Classification Case*, 25 I. C. C., 475.)

17. FEEDING AND GRAZING IN TRANSIT. (*Jan. 6, 1908.*)—(Restated in ruling 442.)

18. Relates to Passenger Traffic.

19. EXPENSE INCURRED IN PREPARING CARS FOR SHIPMENTS CAN NOT BE PAID BY CARRIER IN THE ABSENCE OF TARIFF PROVISION THEREFOR. (*Jan. 6, 1908.*)—Not having box cars available for the movement of machinery, cattle cars were supplied at the request of the shipper, who lined them with tar paper and felt in order to protect his shipments from weather conditions: *Held*, That in the absence of tariff authority the carrier can not lawfully reimburse the shipper for the expense so incurred. (See rulings 78, 132, 267, 292, and 360.)

20. SPECIAL UNDERSTANDINGS BETWEEN SHIPPERS AND CARRIERS, NOT PUBLISHED IN THEIR TARIFFS, OF NO VALID EFFECT. (*Jan. 6, 1908.*)—A shipper had an understanding with agents of carriers that when he delivered shipments to them consigned to stations at which there were no agents the carriers would so advise him and hold the shipments for further direction. In a given case a carrier neglected to so advise him and to hold the shipment, but billed it and sent it forward to a nonagency station as a prepaid shipment: *Held*, That the shipper must pay the charges, and that no understanding of that nature, not incorporated in the published tariffs of the carrier, will operate to relieve the carrier from the duty of collecting the lawful charges. (See ruling 235.)

21. CARETAKERS OF MILK. (*Jan. 6, 1908.*)—The provision of law relating to the free transportation of necessary caretakers of live-stock, poultry, and fruit can not be construed to include caretakers of shipments of milk.

Note.—Under the amendatory act of June 18, 1910, free transportation may be accorded to caretakers of milk.

22. FREE CARRIAGE OF COMPANY MATERIAL. (*Jan. 6, 1908.*)—It is not unlawful for a carrier to return its own property free of charges, to the manufacturers thereof situated on its own line, for exchange or repair.

23. Relates to Passenger Traffic.

24. Relates to Passenger Traffic.

25. REFUND OF DRAYAGE CHARGES CAUSED BY MISROUTING. (*Jan. 6, 1908.*)—(Restated in ruling 509.)

26. Relates to Passenger Traffic.

27. Relates to Passenger Traffic.

28. Relates to Passenger Traffic.

29. QUOTATIONS FROM CORRESPONDENCE OF THE COMMISSION. (*Jan. 13, 1908.*)—The Commission requests that if extracts from its correspondence are sent out by carriers, such extracts be

made sufficiently full, or that sufficient of the correspondence be presented to give a complete view and understanding of the meaning of the ruling and of the circumstances discussed, or of the inquiry answered therein.

30. CARRIERS' MONTHLY REPORTS TO BE FURNISHED IN DUPLICATE. (*Jan. 15, 1908.*)—Beginning as of January 1, 1908, monthly reports of revenues and expenses, as provided for in the order of the Commission bearing date July 10, 1907, shall be filed in duplicate, and on or before the last day of the month immediately following the month covered by the report shall be deposited in the United States Post Office, postage prepaid, and plainly addressed to the Bureau of Statistics and Accounts, Interstate Commerce Commission, Washington, D. C.

31. DEMURRAGE CHARGES ON ASTRAY SHIPMENTS. (*Jan. 15, 1908.*)—An astray shipment of perishable merchandise was not rebilled to its proper destination, but was sold by the consignee at the point where he found it. The delivering carrier at that point had assessed demurrage charges before the shippers were able to locate the car. That carrier expressed its willingness to waive the demurrage if the Commission permits: *Held*, That demurrage charges stand in the same light as transportation charges and may be adjusted under ruling 217 of this bulletin (formerly published as Rule 74 of Tariff Circular 15-A).

32. DEMURRAGE CHARGES. (*Feb. 3, 1908.*)—The delivering carrier is under obligation to collect demurrage charges assessed by it, although such charges may have accrued as the result of error on the part of another carrier. (See ruling 220*f*; see also note to ruling 242.)

The shipper should pay the lawfully published rate via the route over which the shipment moved, pending dispute, and then make claim for refund. The Commission, in the adjustment of misrouting claims, will not ordinarily include demurrage charges. (See ruling 220*e*; also *Ed. Caddell & Sons v. C. & S. Ry. Co.*, U. R. Op. 177.)

When the delivering carrier demands more than the lawful rate, the consignee is released from the obligation to pay demurrage charges accruing during the pendency of the dispute as to the lawful rate. (See Code of National Car Demurrage Rules.)

33. REDUCED RATE TRANSPORTATION FOR FEDERAL, STATE, AND MUNICIPAL GOVERNMENTS. (*Feb. 3, 1908.*)—Under section 22 of the act to regulate commerce, carriers may grant reduced rates for the transportation of property for the United States, or for state or municipal governments, under arrangements made directly with such government and in which no contractor or other third person intervenes, without filing or posting the schedule of such rates with the Commission. (See rulings 36, 208*e*, 218, 244, 311, and 452.)

34. COAL USED FOR STEAM PURPOSES NOT ENTITLED TO REDUCED RATES. (*Feb. 3, 1908.*)—A tariff providing for reduced rates on coal used for steam purposes, or that the carrier will refund part of the regular tariff charges on presentation of evidence that the coal was so used, is improper and unlawful. That is to say, the carrier has no right to attempt to dictate the uses to which commodities transported by it shall be put in order to enjoy a transportation rate. (See ruling 2; also *Board of Bristol, Tenn., v. V. & S. W. Ry Co.*, 15 I. C. C., 456; *In the Matter of Restricted Rates*, 20 I. C. C., 427; and *Divisions of Joint Rates on Railway Fuel Coal*, 37 I. C. C., 265.)

35. Relates to Passenger Traffic.

36. RATES ON SHIPMENTS FOR THE FEDERAL GOVERNMENT. (*Feb. 4, 1908.*)—If title to property, such as postal cards, passes to the government at the point of manufacture, the carrier may agree upon a rate to be applied for transporting it for the government to another point, without filing a tariff with the Commission. But if the manufacturer under his contract is required to deliver to the government at such other point, the transportation must be under the published tariff rate. In other words, if the shipment is made directly by the government, this rate may be fixed by the carrier without posting and filing the tariff, but not otherwise. (See ruling 33, and ruling 244 rescinding ruling 65; also see ruling 452; also *United States v. A. & V. Ry. Co.*, 40 I. C. C., 406.)

37. PASSES TO CARETAKERS. (*Feb. 4, 1908.*)—Passes to caretakers must be in the form of trip passes limited to the journey on which the person to whom the pass runs acts as a caretaker. It may also cover the return journey. Annual or time passes to caretakers are unlawful. (See ruling 1.)

38. REPARATION ON INFORMAL COMPLAINTS. (*Feb. 4, 1908.*)—(Restated in ruling 396.)

39. ACCRUED DEMURRAGE CHARGES. (*March 3, 1908.*)—A shipper who had customarily paid his freight charges in checks was called upon, under a general order issued by the carrier, to pay his freight charges in cash during the recent financial disturbances. While the local agent was endeavoring to get authority from the home office of the carrier to continue to accept checks from this shipper, demurrage charges accrued: *Held*, That they could not lawfully be refunded. (See note to ruling 242.)

40. PRINTING OF BRIEFS. (See current Rules of Practice.)

41. DIVISION OF PROCEEDS OF SALE OF SHIPMENT TO PAY FREIGHT CHARGES. (*March 3, 1908.*)—A shipment refused by the consignee and upon which demurrage had accrued was sold by the delivering carrier, but did not realize the amount of the transportation charges and the amount paid for unloading. Upon the request of the carrier, the Commission declined to express its views as to the manner in which the proceeds of the sale should be divided among the several carriers participating in the movement, that being a matter to be determined by the interested carriers for themselves. (See rulings 114 and 145.)

42. RATES ON RETURN MOVEMENTS. (*March 3, 1908.*)—A shipment of mining machinery went to destination over the lines of one carrier and was subsequently returned for repairs over the lines of another carrier. The published tariff, to which all carriers participating in both movements were parties, provided for half rates on such return movements when over the same route as the original out-bound movement. A portion of the route of the return movement was over the line of a carrier which also formed a part of the through route over which the out-bound shipment moved: *Held*, That the regular tariff rate was properly applied on the return movement; that the return movement under through billing must be treated as a unit; and that there could be no refund on the basis of the half rates for any portion of such through return movement.

43. Relates to Passenger Traffic.

44. Relates to Passenger Traffic.

45. Relates to Passenger Traffic.

46. Relates to Passenger Traffic.

47. TARIFF TAKING EFFECT ON SUNDAY. (*March 9, 1908.*)—Under a tariff schedule regularly filed, showing a change in published rates, it happened that the thirty days' notice required by law expired on Sunday: *Held*, That the tariff is lawful.

48. MAY A SHIPPER OFFSET A CLAIM AGAINST A CARRIER BY DEDUCTION FROM FREIGHT CHARGES ON SHIPMENT? (*March 10, 1908.*)—(Restated in ruling 323.)

49. BENEFIT OF REPARATION ORDERS EXTENDS TO ALL LIKE SHIPMENTS. (*March 10, 1908.*)—(Restated in ruling 200*d*; also see ruling 200*c*.)

50. WHEN JOINT AGENT PUBLISHES A NEW RATE BETWEEN TWO POINTS, WITHOUT CANCELING THE OLD RATE DULY PUBLISHED BY ONE OF THE CARRIERS, THE OLD RATE ON THAT LINE REMAINS IN EFFECT. (*March 10, 1908.*)—The published tariffs of an interstate carrier named a rate of 20 cents on a given commodity between specified points. On October 1, 1907, under a proper power of attorney, a joint agent of all carriers serving those two points published a rate of 22 cents. He failed to cancel the 20-cent rate and it was not formally canceled by the carrier that published it until January 14, 1908: *Held*, That because of the failure of the joint agent and of the carrier that published it to cancel that rate in the manner required by section 6 of the act, and Rule 8 of Tariff Circular 14-A, the 20-cent rate remained the lawful rate of that carrier until formally canceled on January 14, 1908. (See rulings 70, 101, 104, and 239. Rule 8 of Tariff Circular 14-A is now published as Rule 8 of Tariff Circular 18-A.)

51. Relates to Passenger Traffic.

52. RATE EASTBOUND CAN NOT BE APPLIED WESTBOUND UNLESS SO PUBLISHED. (*March 11, 1908.*)—A mixed carload of meat eastbound was diverted at the Ohio River on account of a flood, and, by order of the shipper, was taken by a roundabout route to a point east of its destination and was thence hauled westbound to destination. The mixed-carload rate applied on eastbound shipments, but the tariffs provided no mixed-carload rate on westbound shipments: *Held*, That such

interruption of the eastbound movement would not justify the application of a mixed-carload rate on the westbound movement to destination.

53. TRANSIT PRIVILEGE NOT AVAILED OF CAN NOT BE RENEWED AFTER THE EXPIRATION OF THE TIME ALLOWED IN THE TARIFFS. (*March 11, 1908.*)—A consignor of sheep, which were being grazed in transit, was unable because of a severe snowstorm to get the sheep to the station before the grazing privilege expired according to the published time limit. Upon inquiry of the carrier, it was held that it can not lawfully take the sheep forward on the rates which would have been applicable under the tariff had the sheep been shipped within the time limit.

54. DEMURRAGE ON INTERSTATE SHIPMENTS. (*March 16, 1908.*)—Questions of demurrage and car service on interstate shipments are within the jurisdiction of the Interstate Commerce Commission, which does not concur in the view suggested by certain state commissions that such matters, even when pertaining to interstate shipments, are within their control. (Reaffirmed by ruling 223*b*.)

55. Relates to Passenger Traffic.

56. Relates to Hours-of-Service Law.

57. RESHIPING RATE FROM PRIMARY GRAIN MARKETS. (*April 7, 1908.*)—May a carrier lawfully cancel its local, reconsigning, proportional, and other rates, on outbound shipments of grain from a primary market like Kansas City, where no grain originates upon which the local rate would be applicable, and substitute for them a reshipping rate applicable on all outbound grain?

Responding to the inquiry, the Commission approved the suggestion, but declines in advance to express approval of such reshipping rate when it makes less than the published rate from an intermediate point.

58. DECLARING A FALSE VALUATION IN VIOLATION OF SECTION 10. (*April 7, 1908.*)—Upon an inquiry from a banking house whether it may lawfully declare a value of \$5,000 upon a package of negotiable bonds of the market value of \$10,000 and pay the express charges on the basis of the declared value, upon the understanding that in case of the loss of the bonds the express company will be responsible only for the amount so declared, it was held that a shipper falsely declaring the value of a package delivered to an express company for transportation violates section 10 of the act. (See ruling 295, and compare ruling 188; see also *Express Rates, Practices, Accounts, and Revenues*, 43 I. C. C., 510.)

59. CARRIERS MUST SEND CAR THROUGH OR TRANSFER SHIPMENT EN ROUTE. (*April 7, 1908.*)—Where connecting lines have united in publishing a joint through rate between two points, it is the sense of the Commission that it is the duty of the carriers in the route to provide the car and permit it to go through to destination or to transfer the property en route to another car at their own expense. (Affirmed in ruling 339.)

60. Relates to Passenger Traffic.

61. Relates to Passenger Traffic.

62. BOATS THAT ARE NOT COMMON CARRIERS. (*April 14, 1908.*)—Certain carriers have been in the habit of advancing the charges of sailing vessels, boats, and barges bringing vegetables to their terminals to be forwarded to interstate destinations, and of entering the amount on waybills as charges in addition to their tariff rates. Upon inquiry whether the carriers may lawfully continue this practice, it was held that if the boats are common carriers, making regular trips and offering their services to the general public, they must file tariffs, and the practice must be discontinued until they do so. (See ruling 428; also ruling 444.)

63. Relates to Passenger Traffic.

64. ABSORPTION OF SWITCHING CHARGES. (*April 14, 1908.*)—The tariff of a carrier provided for the absorption of switching charges. Upon inquiry it was agreed that the Commission could not sanction a practice under which switching charges are paid by the consignee, the carrier deducting the amount of the switching charges from the published rates and collecting the balance from the consignee. In all cases the carrier must collect the full tariff rates. Where its tariffs provided for absorptions of switching charges, the carrier must pay the switching company for its services and not leave that to be done by the shipper.

65. SPECIAL RATES FOR UNITED STATES, STATE, OR MUNICIPAL GOVERNMENTS. (*April 18, 1908.*)—(Overruled and withdrawn by ruling 244; also see ruling 208*e*.)

66. JOINT RATES BETWEEN A WATER AND A RAIL CARRIER SUBJECT THE FORMER TO THE PROVISIONS OF THE ACT. (*May 4, 1908.*)—A steamboat line agreed upon joint rates with a rail line for certain passenger and freight traffic: *Held*, That it could not unite with a railroad company in making a through route and joint rate on a particular traffic without subjecting all its interstate traffic to the provisions of the law and to the jurisdiction of the Commission.

In the Matter of Jurisdiction over Water Carriers, 15 I. C. C., 205, the Commission held that carriers of interstate commerce by water are subject to the act to regulate commerce only in respect of traffic transported under a common control, management, or arrangement with a rail carrier, and in respect of traffic not so transported they are exempt from its provisions. (See rulings 155, 201, 354, 401, and 422; also *Kansas City Missouri River Navigation Co. v. C. & O. Ry. Co.*, 34 I. C. C., 67.)

67. HANDHOLDS—SAFETY-APPLIANCE LAW. (*May 4, 1908.*)—The law makes no distinction between passenger and freight cars, and handholds must, therefore, be placed on the ends of passenger cars and cabooses.

68. ADJUSTMENT OF CLAIMS. (*May 4, 1908.*)—(Restated in ruling 236; also see ruling 462.)

69. Relates to Passenger Traffic.

70. EFFECT OF A FAILURE IN A NEW TARIFF NAMING HIGHER RATES TO CANCEL THE SAME RATES IN PRIOR TARIFF. (*May 5, 1908.*)—A carrier's tariff, effective January 1, 1903, named certain rates between two points. By a joint tariff, effective February 1, 1908, higher rates were named between the same points, but without reference to the previous tariffs or cancellation of the lower rates therein. On March 26, 1908, a supplement was filed, naming the same higher rates and canceling the rates named in the tariff of January 1, 1903: *Held*, That until March 26, 1908, when the original rates were canceled, they remained in effect and were the lawful rates. (See rulings 50, 101, and 104; compare ruling 239.)

71. Relates to Passenger Traffic.

72. RECONSIGNMENT PRIVILEGES AND RULES. (*May 5, 1908.*)—(a) Usually the combination of intermediate rates is higher than the through rate. Frequently a shipper desires to forward a shipment to a certain point and have the privilege of changing the destination or consignee while shipment is in transit, or after it arrives at destination to which originally consigned, and to forward it under the through rate from point of origin to final destination. Many carriers grant such privilege and generally make a charge therefor.

(b) The privilege is of value to the shipper, and in order to avoid discrimination it is necessary for carrier that grants such privilege to publish in its tariff that fact, together with the conditions under which it may be used and the charge that will be made therefor. Such rules should be stated in terms that are not open to misconstruction.

(c) Some carriers do not count a change of consignee which does not involve a change of destination as a reconsignment, while others do consider it a reconsignment and charge for it as such. The Commission holds the view that, without specific qualifications, the term "reconsignment" includes changes in destination, routing, or consignee. If carrier wishes to distinguish between such changes in its privileges or charges, it must so specify in its tariff rules. Reconsignment rules and charges must be reasonable, and a charge that would be reasonable for a diversion or change of destination might be unreasonable when applied to a simple change in consignee which did not involve change in destination or more expensive delivery. (This rule is the same as rule 74 of Tariff Circular 18-A. See *Beekman Lumber Co. v. K. C. S. Ry. Co.*, 17 I. C. C., 87; *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 527; and *Atwood & Co. v. C., B. & Q. R. R. Co.*, 42 I. C. C., 386.)

73. EFFECTIVE DATE OF TARIFF FILED BY A CARRIER WHEN FIRST COMING UNDER THE LAW. (*May 5, 1908.*)—A carrier, under its arrangements for the first time to participate in interstate transportation, failed to note an effective date on its first tariff schedule: *Held*, That being that carrier's first tariff it became effective as soon as filed. (See rulings 12 and 100*b*.)

74. Relates to Hours-of-Service Law.

75. Relates to Passenger Traffic.

76. Relates to Passenger Traffic

77. TRANSIT PRIVILEGES NOT RETROACTIVE. (*May 14, 1908.*)—Ruling 6, providing that the benefit of reconsignment privileges can not be given retroactive effect, is held to include cleaning, milling, concentration, and other transit privileges. (See ruling 166; also *Henry v. Eastern Ry. Co.*, 20 I. C. C., 172.)

78. GRAIN DOORS. (*June 1, 1908.*)—(a) A carrier may not lawfully reimburse shippers for the expense incurred in attaching grain doors to box cars unless expressly so provided in its tariff. There is a material difference between the furnishing of service or facilities to carriers by one who is not a shipper and the furnishing of the same facilities or services by one who is a shipper. (See rulings 19, 292, and 360.)

(b) The Commission now decides that its ruling above and the requirements of the law thereunder will, for the present at least, be satisfied if the carriers that propose to pay shippers for grain doors furnished by such shippers provide in their tariffs that where grain doors are necessary and are furnished by the shipper the carriers will pay the actual cost of such doors, with stated maximum allowances per grain door and per car. (Affirmed by ruling 267.)

(c) Such maximum allowances per door and per car must be reasonable, and where carrier pays for such doors on the basis of actual cost, certified statement from shipper, verified as to the number of doors furnished and the cars for which furnished by carrier's agent, should in every instance be required. (Reaffirmed by ruling 267; see ruling 132; also *Loomis v. L. V. R. R. Co.* 240 U. S., 43; *National Lumber Ass'n v. A. C. L. R. R. Co.*, 14 I. C. C., 154; and *N. Y. Shippers Ass'n v. N. Y. C. & H. R. R. Co.*, 30 I. C. C., 437.)

79. "PRIVATE SIDE TRACKS" AND "PRIVATE CARS" DEFINED. (*June 2, 1908.*)—(a) Modified and restated in ruling 121.)

(b) A private car is defined in the opinion as "a car owned and used by an individual, firm, or corporation for the transportation of the commodities which they produce or in which they deal." It will include also cars owned and leased to shippers by private corporations. (Qualified by ruling 122; also see ruling 128.)

(c) The ruling as to demurrage charges on private tank cars is applicable to all other private cars used by the railroads and paid for on a mileage basis. (See ruling 222.)

(d) It is not the intention of the Commission that its ruling shall be given a retroactive effect. The demurrage question has been in a state of great confusion, and the desire of the Commission is to establish a uniform, fair, and practicable system for the future. Claims for refund of demurrage charges previously collected in accordance with regular tariff rules will not be entertained with favor. (See rulings 123, 128, 222, and note to ruling 242, see also Rule 75 of Tariff Circular 18-A.)

80. SHIPMENT THAT MOVED IN UNDER A FORMER TARIFF DOES NOT LOSE THE BENEFIT OF TRANSIT PRIVILEGE CANCELED PENDING THE OUT MOVEMENT. (*June 9, 1908.*)—A tariff enabled shippers to concentrate commodities on local rates at a certain point for shipment within a named period in carload lots, the in-bound billing to be surrendered and through rates from point of original shipment to apply. Before the period for taking advantage of this privilege had expired a new tariff made a new arrangement: *Held*, That with respect to shipments that had moved to the concentrating point under the old tariff and which moved out within the period therein allowed, the old rate should apply. (See *Isbell-Brown Co. v. G. T. W. Ry. Co.*, U. R. Op. A-908.)

81. Relates to Passenger Traffic.

82. CHARTERING TRAINS. (*June 9, 1908.*)—It is not unlawful for a railroad company to publish a tariff under which a locomotive and train of cars may be chartered at a named rate, tickets for the journey on that train to be sold by the person chartering the train.

83. BLOCKADE BY FLOOD. (*June 9, 1908.*)—A carrier accepted a carload shipment for movement to a point beyond its line. After delivering the shipment to a connection at a junction point, it was advised that the connecting line had been closed by floods. The initial carrier accepted the return of the car from that line and ordered it forward to destination via another route carrying higher rates, taking this action without instructions from the shipper: *Held*, That the initial line was

responsible to the shipper for the resulting increase in the transportation charges. (See rulings 146, 147, and 213a; also *Woodward & Dickerson v. L. & N. R. R. Co.*, 15 I. C. C., 173; *Weyl-Zukerman & Co. v. C. M. Ry. Co.*, 27 I. C. C., 495; and *Morse Lumber Co. v. L. & N. R. R. Co.*, 33 I. C. C., 572.)

84. A COMMODITY RATE TAKES THE COMMODITY OUT OF THE CLASSIFICATION. (*June 9, 1908.*)—A carrier having a high class rate on furniture with a low minimum also had a lower commodity rate with a higher minimum. In response to an inquiry whether they are privileged to use either rate as they desire: *Held*, That the only purpose of making a commodity rate is to take the commodity out of the classification. The commodity rate is, therefore, as stated in Rule 7, Tariff Circular 15-A, the lawful rate. And if the carrier does not desire to apply it on all shipments it must be canceled. (See also Rule 7 of Tariff Circular 18-A.)

85. SUBSTITUTING TONNAGE AT TRANSIT POINT. (*June 25, 1908.*)—(Restated in ruling 203.)

86. POSTING TARIFFS AT STATIONS. (*June 25, 1908.*)—Under the order of the Commission of June 2, 1908, entitled "In the Matter of Modification of the Provisions of Section Six of the Act with Regard to Posting Tariffs at Stations," if a subsidiary or small connecting line has authorized the parent company, or principal connecting line, to publish and file for it all of its tariffs, tariffs so issued and filed on its behalf will be included in the complete public tariff files of the parent or issuing line, and it will not be necessary for such subsidiary or small line to maintain an additional complete public file. (See also ruling 289.)

The order above mentioned was in effect superseded by an order of October 12, 1915, relating to the same matter.

87. TRANSPORTATION FOR EATING HOUSES OPERATED BY OR FOR CARRIERS. (*June 25, 1908.*)—Carriers subject to the act may provide at points on their lines eating houses for passengers and employees of such carriers, and property for use of such eating houses may properly be regarded as necessary and intended for the use of such carriers in the conduct of their business. Such eating houses, however, must not serve the general public, or any portion thereof, with food prepared from commodities which have been carried at less than the full published rate, and no utensils, fuel, or servants at all employed in serving others than passengers and employees of the carrier as such should be carried at less than tariff rates. Such privileges as may be extended under this rule shall be applied only as to points local to the line on which the eating house is situated. (Compare ruling 124.)

88. Relates to Hours-of-Service Law.

89. JURISDICTION OF ACT OVER LOCAL BELT OR SWITCHING LINES. (*June 29, 1908.*)—The question is asked, "Is a belt line owned by a municipality, which participates in interstate movements, subject to the jurisdiction of the act and of the Commission?" *Held*, That it is subject to such jurisdiction. (Compare ruling 162.)

90. MISROUTING VIA LINE THAT HAS NO TARIFF ON FILE. (*June 29, 1908.*)—A shipment was misrouted and passed over a route via a part of which no rate was filed with the Commission, and was thus subjected to a higher charge than the through rate via the proper route: *Held*, That misrouting carrier may be authorized to make refund on account of its error in misrouting shipment, and that carrier which participated in the transportation without lawful tariff applicable thereto should be dealt with through the Division of Prosecutions. (See ruling 93.)

91. A MUCH LONGER AND MORE INDIRECT ROUTE NOT A REASONABLE ROUTE. (*June 29 1908.*)—A shipment was tendered destined to a certain point, the direct route to which was over the lines of two carriers, a distance of 358 miles, the rate via that route being 22 cents. It was possible to send the shipment around over the lines of three carriers, a distance of 617 miles, and secure a combination rate of only 19 cents. Application for refund was made on account of the difference between the rates: *Held*, That the claim for refund should be denied on the ground that the much longer and indirect route is not a reasonable route. (See ruling 214; also *R. B. Homer Lumber Co. v. S. A. L. Ry.*, U. R. Op. A-351.)

92. Relates to Passenger Traffic.

93. MISROUTING INVOLVING CARRIERS NOT SUBJECT TO THE ACT. (*June 30, 1908.*)—A shipment was tendered to a carrier in North Carolina, destined to California. Shipper requested that

it be sent via New York and the Isthmus of Panama. Shipment was forwarded all rail under a rate alleged to be higher than would have applied via the route indicated: *Held*, That the Commission can not authorize refund because no tariffs are on file with the Commission via the route over which the shipper directed the shipment moved, and there is therefore no official measure of the accuracy of the claim for overcharge or the amount thereof. (See rulings 90 and 214.)

94. LEASING CARRIER'S PROPERTY IN CONSIDERATION OF LESSEE'S SHIPMENTS. (*June 30, 1908.*)—A carrier leases a part of its property to a certain industry under a contract which contains the obligation on part of the lessee industry to make all of its shipments by the line of the lessor carrier. Such a provision plainly implies that the traffic so furnished by the lessee and so secured by the lessor is an important and substantial consideration which might amount to a concession in the rates for transportation, and, therefore, be an unlawful device or discrimination. The Commission expressed doubt as to the propriety of the practice. (See rulings 325 and 421.)

95. Relates to Passenger Traffic.

96. DEMURRAGE ON F. O. B. SHIPMENTS. (*October 12, 1908.*)—A purchased a carload of lumber f. o. b. at the milling point. Demurrage accrued on account of the failure of B, the mill owner, to promptly unload the car. Carrier inadvertently delivered the car to A without collecting the demurrage. Upon its inquiry as to whether to demand the demurrage from A or B: *Held*, That the demurrage must be collected by the carrier either from the vendor or the vendee, but that the Commission can not undertake to investigate the facts and determine for the carrier whether the vendor or the vendee is liable for the charges. (See note to ruling 242; also *Crescent Coal & Mining Co. v. B. & O. R. R. Co.*, 23 I. C. C., 83.)

97. COLLECTION BY CARRIER OF L. C. L. SHIPMENTS. (*October 12, 1908.*)—The Commission condemns as unlawful a practice under which a carrier provides an empty car at factory sidings, in which the shipper may load L. C. L. shipments, which the carrier then moves to its regular freight station where the shipments are assorted and placed in other cars to be forwarded to their respective destinations. Such practice is lawful only under definite and clear tariff authority, non-discriminatory in terms and in its application. (See *Trap or Ferry Car Service Charges*, 34 I. C. C., 521.)

98. LOCAL BILLING TO AVOID HIGHER THROUGH RATE. (*October 12, 1908.*)—A lawful through rate existed between two points, applicable over two routes, one of which was indirect and therefore not ordinarily used by the carrier for through movements. The shipper billed locally to a point on the latter route, and rebilled to destination without taking either constructive or actual possession of the shipment at the local point, but making his rebilling arrangements with the agent of the carrier at a distant point. Upon arrival of the shipment at destination, the carrier collected the balance of the through rate: *Held*, That the local billing was not in good faith, but was a device between the shipper and the carrier's agents to avoid the higher through rate, by having the carrier's agents act as the forwarding agents of the shipper; therefore the through rate is the only rate lawfully applicable. Affirmed in ruling 337. (See also rulings 24 and 365; also *In re Wharfage Facilities at Pensacola, Fla.*, 27 I. C. C., 258; *Doran & Co. v. N. C. & St. L. Ry.*, 33 I. C. C., 527; and *Kanotex Refining Co. v. A., T. & S. F. Ry. Co.*, 34 I. C. C., 271.)

99. Relates to Passenger Traffic.

100. EFFECTIVE DATE OF TARIFF THAT WAS USED BEFORE AUGUST 28, 1906, BUT WAS NOT FILED UNTIL AFTER THAT DATE. (*October 12, 1908.*)—(a) Prior to the effective date of the amended act some carriers used the car-service rules of car-service associations under which to assess demurrage and other terminal charges, but did not file those rules with the Commission until after the amended act became effective. Such publications bore effective dates antedating their filing, but indicated no specific date subsequent to the date of filing upon which the schedule should become effective. The question is raised as to whether such publications so filed became effective on date of filing or thirty days subsequent thereto: *Held*, That, prior to August 28, 1906, as well as subsequent to that date, the law required carriers amenable to its provisions to file with the Commission and post to the public schedules containing their terminal charges "and any rules or regulations which in any wise change, affect, or determine any part or the aggregate" of their rates, fares and charges. The amended act prohibits carrier from engaging or participating in transportation of passengers

or property, as defined in the act, unless the rates, fares, and charges upon which the same are transported have been filed and published in accordance with the provisions of the act.

(b) The Commission has decided that, excepting the first tariff under which a carrier engages in interstate transportation, a tariff that is filed without naming date on which it is to take effect is unlawful and never becomes effective, and now decides that publications that were used prior to the effective date of the amended act, that were filed subsequent to that date and which bore effective dates antedating the date of filing thereof, became effective thirty days subsequent to the date of filing the same. (See rulings 12 and 73.)

101. CANCELLATIONS IN TARIFFS MUST BE SPECIFIC AND COMPLETE. (*October 12, 1908.*)—Carrier's tariff contains certain rates. Joint agent's tariff canceled certain of those rates, but the carrier did not issue any corresponding amendment to its tariff, as is required by Rule 8, Tariff Circular 15-A. It is essential that when one tariff cancels a part of another tariff, specific reference to the tariff so affected and to the part thereof so canceled shall be given, and that, effective on the same date, supplement to the tariff so canceled in part shall show that the specific parts are canceled by, and that the rates will thereafter be found in, _____ tariff, I. C. C. No. _____. In no other way can discriminations and complaints be avoided. The carrier knows that such parts of its tariff are to be canceled and that superseding rates are to be shown in another tariff. There is, therefore, no difficulty about arranging its supplement and furnishing it to the proper party to be filed with the issue that contains the superseding rates. (See rulings 50, 70, 104, and 239; Rule 8, Tariff Circular 15-A, amended accordingly; see Rule 8 of Tariff Circulars 17-A and 18-A.)

102. Relates to Passenger Traffic.

103. Relates to Passenger Traffic.

104. CONFLICT IN PASSENGER TARIFFS. (*Nov. 9, 1908.*)—Certain fares of a carrier had been published in a joint agent's tariff and also in its own tariff. The carrier issued a new tariff canceling the fares in its own tariff, but did not secure their cancellation in the joint agent's tariff. *Held*, That the new tariff was unlawful because in conflict with the uncanceled tariff of the joint agent. (See rulings 50, 70, 101, and 239; also *Stilwell v. L. & N. R. Ry. Co.*, 19 I. C. C., 405.)

105. Relates to Passenger Traffic.

106. TARIFFS FOR THE TRANSPORTATION OF EXPLOSIVES. (*Nov. 9, 1908.*)—Under a special act of Congress the Commission prescribed certain regulations governing the transportation of explosives. Such regulations are law to the carriers as well as to the shippers, and they can not be changed except by act of Congress or by this Commission. It is therefore not considered necessary for each carrier to file with the Commission copy of such regulations as a tariff issue, but it is considered necessary that each tariff which contains rates for the transportation of explosives shall also contain notice that such rates are applicable in connection and in compliance with the regulations fixed by the Interstate Commerce Commission. This provision must be in every such tariff issued hereafter, and must be incorporated in existing tariffs by reissue or supplement as early as practicable.

If tariff is governed by classification, it will be sufficient to include the notice in the classification referred to as governing the tariff. (Rule 4, Tariff Circular 15-A, amended accordingly; see also Rule 65 of Tariff Circular 18-A; also see ruling 388.)

107. Relates to Passenger Traffic.

108. Relates to Hours-of-Service Law.

109. TRANSPORTATION OF HOUSEHOLD GOODS OF AN EX-EMPLOYEE. (*Nov. 10, 1908.*)—A carrier gave free transportation to an employee and his household effects to the point where he was to be employed, and later dismissed him: *Held*, That the Commission can not require the carrier to return the household effects free of charge to the point from which they were first moved. (Reaffirmed by ruling 255; see also ruling 208b.)

110. REPAYMENT BY CARRIER ON ACCOUNT OF SWITCH TRACK. (*Nov. 10, 1908.*)—A shipper in 1895 paid \$200 to a carrier as part of the cost of constructing a spur track to its warehouse. Upon application of the carrier for permission to repay the amount to the shipper: *Held*, That the repay-

ment would be unlawful unless the shipper had some equity or ownership in the track which he could transfer to the carrier in consideration of the payment. (See ruling 512.)

111. CHANGE OF RATE WHILE SHIPMENT WAS ON THE OCEAN. (Nov. 12, 1908.)—A shipment of linoleum left Hamburg on July 4, at which time there was in effect a published through rate to San Francisco via New Orleans of \$1.10. When the shipment reached New Orleans the through rate had been canceled, leaving in effect a local rate from New Orleans to San Francisco of 90 cents. Upon application for permission to refund down to the \$1.10 through rate: *Held*, That the application must be denied. (See *Borgfeldt & Co. v. Southern Pacific Co.*, 18 I. C. C., 553.)

112. CARETAKERS FOR BEES IN HIVES. (Nov. 12, 1908.)—Upon inquiry from a classification committee it was agreed that tariffs may lawfully provide for free transportation of caretakers of bees in hives.

113. Relates to Passenger Traffic.

114. RECONSIGNMENT OF REFUSED SHIPMENTS. (Nov. 12, 1908.)—It appears that in some instances carriers are willing to re consign refused shipments to points beyond the first destination and to apply the tariff rate from point of origin to final destination, even though it be lower than the rate to first destination, but they do not feel at liberty to do so in view of paragraph 2 of Rule 78, Tariff Circular 15-A. It is optional with the carrier whether or not it will grant reconsigning privilege. If granted, the conditions governing it must be in tariff, and if charges for back haul or out-of-line haul are to be assessed, rule must so state.

It is of course understood that satisfactory showing of genuine transaction and actual refusal by consignee will be required. (Rule 78, Tariff Circular 15-A, amended accordingly; now published as Rule 67 of Tariff Circular 18-A; see rulings 41 and 145.)

115. Relates to Passenger Traffic.

116. Relates to Passenger Traffic.

117. DEMURRAGE WAIVED UNDER SPECIAL CIRCUMSTANCES. (Nov. 13, 1908.)—A sidetrack to an industry upon which a carrier had delivered 18 heavily loaded cars sank because of the marshy character of the roadbed: *Held*, That the carrier may refund demurrage collected for the necessary detention of the cars while the sidetrack was being rebuilt. (See note to ruling 242.)

118. REDUCED RATES FOR MUNICIPAL GOVERNMENTS IN FOREIGN COUNTRIES ADJACENT. (Nov. 13, 1908.)—Upon inquiry: *Held*, That the reduced-rate transportation for municipal governments permitted under section 22 of the act does not apply to municipal governments in foreign countries adjacent.

119. RESHIPING OF GRAIN. (Nov. 13, 1908.)—Upon inquiry whether a proposed tariff rule providing that "the rate to be applied on all outbound transit grain of record shall be the specific rate that is lawfully in effect from Chicago at the time the grain is reshipped" may lawfully be incorporated in a tariff: *Held*, That the Commission can not sanction the rule, and that the grain can move only as a through movement on the through rate in effect at the time it starts, or as a local movement. (See *In re Milling-in-Transit Rates*, 17 I. C. C., 113; *Liberty Mills v. L. & N. R. R. Co.*, 23 I. C. C., 184; and *Board of Trade of City of Chicago v. A. A. R. R. Co.*, 39 I. C. C., 651.)

120. RESPONSIBILITY OF CARRIER FOR FAILURE TO FURNISH PROPER CARS UNDER RATE CONFINED TO CARS OF A CERTAIN CLASS. (Nov. 13, 1908.)—Certain rates on coal published by a carrier to points on a connecting line were expressly limited to shipments "loaded in box or stock cars only," because the connection refused to handle coal shipments in open cars. Upon demand for cars for a shipment to such points the carrier, instead of furnishing box cars to which the rate applied, furnished coal cars, which carried a higher rate: *Held*, That the carrier, having issued the tariff itself and having furnished cars that did not comply with the tariff requirements, was responsible for the excess charges.

121. A PRIVATE SIDETRACK DEFINED. (Nov. 14, 1908.)—A private sidetrack is one that is outside the carrier's right of way, yard, and terminals, and of which the railroad does not own either the rails, ties, roadbed, or right of way. (Modifying ruling 79a; see note to ruling 242.)

122. A PRIVATE CAR OWNED BY ONE SHIPPER BUT USED BY ANOTHER. (Nov. 14, 1908.)—A private car owned by one shipper but used with his consent by another shipper dealing in a different

commodity is not a private car as that phrase has been defined by the Commission in connection with demurrage charges. (Qualifying ruling 79b; see also ruling 128.)

123. DEMURRAGE ON PRIVATE CARS TEMPORARILY OUT OF SERVICE STANDING ON CARRIERS' STORAGE TRACKS. (*Nov. 14, 1908.*)—Demurrage is a charge for detention of cars that have been set by carrier for loading or unloading. Private cars are subject to demurrage rules the same as is the carriers' equipment, except when the private car is standing on the private sidetrack. It is not necessary to charge demurrage either on carriers' equipment or private cars when same are temporarily out of service and standing idle upon the storage tracks of the carrier unless provision for such charge is included in carriers' demurrage rules. (See rulings 79, 222, 270, and note to ruling 242; see also Rule 75 of Tariff Circular 18-A; see also Code of National Car Demurrage Rules.)

124. FREE TRANSPORTATION OF MATERIAL AND WORKMEN. (*Dec. 7, 1908.*)—A carrier, not being able to obtain ice for refrigeration purposes at a division point, entered into a contract under which a private company there undertook to build a plant and manufacture ice. The contract provided that in case it was necessary to enlarge the plant to meet the increasing needs of the carrier, the carrier would transport free of charge the materials and mechanics necessary to make the enlargement. An enlargement was required and made, and upon application by the carrier for permission to refund the freight charges on the materials used and the passenger fares paid by the mechanics employed on the work: *Held*, That the application must be denied, it appearing that the ice plant also sold ice commercially in the community in question. (Compare ruling 87.)

125. Relates to Passenger Traffic.

126. REFUND OF OVERCHARGE ON SHIPMENT TO FOREIGN COUNTRY ADJACENT. (*Dec. 8, 1908.*)—An overcharge was collected on a shipment of tobacco to a point in Mexico. On application of the American carriers, in which the Mexican lines refused to join: *Held*, That the American lines might refund such part of the total overcharge as their division of the through rate bears to the entire through rate.

127. DAMAGE TO FRUIT BY DELAYED NOTICE OF ARRIVAL AT DESTINATION. (*Dec. 8, 1908.*)—An express company undertook to notify the consignee of the arrival at destination of a shipment of strawberries, but failed for some days to effect notice, partly because of an erroneous address on a postal card: *Held*, That the damage resulting from the delay was not due to any violation of the act to regulate commerce and therefore was not cognizable by the Commission. (See ruling 366.)

128. INCORPORATION IN TARIFFS OF AMENDED DEFINITION OF A PRIVATE CAR. (*Dec. 10, 1908.*)—On June 2, 1908, the Commission amended its definition of a private car as used in the opinion *In the Matter of Demurrage Charges on Privately Owned Tank Cars*, 13 I. C. C., 378, to include also cars owned and leased to shippers by private corporations. It is held that this amendment shall be incorporated in all new car-service rules dealing with this subject, and that all rules shall be so amended as to include leased cars on or before the next fiscal year, July, 1909. The Commission rules, however, that upon the amendment of tariffs as indicated, such leased cars, under the conditions dealt with in case No. 933, may be treated as private cars and be exempt from demurrage when standing on private tracks. (See rulings 79b, 122, and 222; see also note to ruling 242.)

129. SIGNATURE TO APPLICATIONS FOR SPECIAL REPARATION. (*Jan. 4, 1909.*)—In case of the absence, illness, or disability of the executive or general officer of a carrier by whom special reparation applications are customarily made to the Commission, such applications may be signed in the name of such executive or general officer by his chief clerk, provided the executive or general officer has previously filed with the Commission written authority for the chief clerk to append his signature in such cases.

130. MAINTENANCE OF RELATIVE ADJUSTMENT IN ISSUING TARIFFS TO CONFORM WITH FORMAL ORDER OF THE COMMISSION. (*Jan. 4, 1909.*)—In establishing rates or regulations under an order of the Commission in a formal case, carrier or carriers that are actually and on the record parties to the case, or that are lawful parties to a joint tariff in which the rate or regulation that is prescribed is published by some carrier that is party to the case, may include in the change or changes made in compliance with the Commission's order, commodity or commodities that are grouped with that or those which are specified in the order; and may also include adjustment at other points in order to preserve established grouping or relation of points, and may also include adjustment of rates to

same points on other commodities for the purpose of maintaining established relation of rates between commodities. *Provided*, all such changes made by authority of this rule shall be effected by reductions in rates or charges.

If carrier that is not so party to the case or to the joint tariff desires to make on less than statutory notice the same changes that are made under the order by carrier that is party to the same, it must secure special permission so to do. (See rulings 14, 200a, and 396.)

131. "GROSS TON" AND SIMILAR PHRASES, AS USED IN TARIFFS, DEFINED. (*Jan. 4, 1909.*)—The terms "per ton" and "net ton," when used in tariffs, will, in the absence of qualifying words, be held to mean a ton of 2,000 pounds. The terms "gross ton" and "long ton" and "ton of 2,240 pounds" will be held to mean a ton of 2,240 pounds.

132. REFUND ON GRAIN DOORS. (*Jan. 5, 1909.*)—Where a carrier has established a tariff provision in conformity with the Commission's rule with respect to the payment by carriers of the cost of grain doors, and it appears that, prior to the publication of such a tariff, it had been the practice of carrier to pay for grain doors furnished by shippers: *Held*, That applications may be made on the special reparation docket for authority to refund on the basis of the tariff provision for grain doors furnished within six months prior to the effective date of the tariff rule. (See rulings 19, 78, 267, 292, and 360.)

133. OVERCHARGE ON ONE SHIPMENT OFFSET AGAINST UNDERCHARGE ON ANOTHER. (*Jan. 7, 1909.*)—(Superseded by ruling 323.)

134. Relates to Passenger Traffic.

135. DEMURRAGE ON INTERSTATE SHIPMENTS. (*Jan. 27, 1909.*)—Rule in Supplement No. 2 to Tariff Circular 15-A, entitled "Demurrage on interstate shipments," is amended by adding thereto the following:

It is not permissible to provide that demurrage may be refunded or waived in case of inclement weather and leave it to the judgment of some person to determine what constitutes inclement weather. It is permissible to provide that demurrage charges shall be waived or refunded in case of weather interference of such severity as to damage the freight in handling it into or from the car, or when shipment is frozen so as to prevent or seriously hinder unloading, or when because of flood or high water, or snowdrifts which it is the carrier's duty to remove, it is impracticable to get to car for loading or unloading.

(Amending ruling 223c. See ruling 358 and see also important note to ruling 242. Rule in Supplement No. 2 referred to, is now reported as Rule 75 of Tariff Circular 18-A. See Code of National Car Demurrage Rules.)

136. ACCRUED CLAIMS NOT INVALIDATED BY SUBSEQUENT CANCELLATION OF ABSORPTION RULE. (*Jan. 27, 1909.*)—A tariff providing for the absorption of inbound switching charges on certain traffic also provided that they would not be absorbed when the expense bills therefor were presented more than six months after their date. Within six months after certain switching services had been performed, bills therefor were presented, but the carrier refused payment on the ground that during the interval the absorption rule referred to had been cancelled: *Held*, That the subsequent cancellation could not invalidate a claim already accrued.

137. INITIAL CARRIER LIABLE FOR MISROUTING. (*Feb. 2, 1909.*)—An initial carrier delivered a shipment to a connection, but did not give it any routing instructions beyond noting on the waybill the through rate via the cheaper of two available routes. The connecting carrier sent it over the route yielding it the greater revenue, but carrying the higher through rate: *Held*, That the initial carrier is liable for the misrouting. (Construed and amended by ruling 286c. See ruling 199.)

138. CHARGES FOR MOVING PRIVATE CAR. (*Feb. 2, 1909.*)—A tariff provided for the movement of a private car or sleeper at the regular fare for each occupant with a minimum of 20 adult fares and a minimum collection of \$25 for each movement. Its direct line being blockaded by a washout, a carrier sent individual passengers around a longer route over its lines at the short-line fare, but charged the occupants of such private car then on its lines the full mileage rates for the longer haul: *Held*, That under the tariff rule the car and party should have moved as the individual passengers

were moved under the same circumstances; and that the short-line fare ought also to have been applied to the private car and party. (See ruling 213.)

139. STATUTE OF LIMITATION. (*Feb. 2, 1909.*)—(Construed and amended by Ruling 286a, b.)

140. MISROUTING SHIPMENT THAT COULD MOVE INTRASTATE. (*Feb. 2, 1909.*)—A shipment destined to another point in the same state was delivered to a carrier without routing instructions. It was sent by a route which took it outside the state lines, and required the payment of an interstate rate higher than the state rate which would have applied on an available intrastate route: *Held*, That the Commission recognizes the right of the shipper to route his shipment, which in this instance the shipper neglected to do; that the shipment moved interstate, and that the Commission can not say that the interstate line can apply any other than its lawfully published tariff rate except under special permission or order of the Commission. (See rulings 214 and 419.)

141. TARIFF IS NOT GOVERNED BY CLASSIFICATION EXCEPT WHEN SO SPECIFIED. (*Feb. 2, 1909.*) A tariff naming commodity rates on strawberries in carloads fixed a certain rate on a minimum of 100 crates, and a lower rate on a minimum of 200 crates. The classification in that territory provided that carload rates would apply only when the carload is shipped from one station in one day by one shipper to one consignee and destination. The shipments in question belonged to different owners, but, with the knowledge and consent of the carrier and under the admitted intent of the tariff, were loaded and forwarded as carload shipments. They were loaded to or beyond the minimum of 200 crates per car: *Held*, That they were entitled to the application of the lower rate on the basis of the 200 crate minimum.

142. BUNCHING CARS IN TRANSIT. (*Feb. 8, 1909.*)—Upon an informal complaint that cars were delayed in transit and delivered by a carrier in such number as to exceed the shipper's facilities for unloading within the free time. *Held*, That tariffs ought to contain a rule providing that when, by fault of the carrier, cars are bunched in excess of the shipper's or consignee's ability to handle them with the free time, demurrage will not accrue. In the absence of such a rule the Commission can determine the reasonableness of such a practice only upon complaint filed. (See note to ruling 242; also Code of National Car Demurrage Rules.)

143. MISROUTING OF COMPANY MATERIAL. (*Feb. 8, 1909.*)—The initial carrier, disregarding instructions to route a shipment through a particular junction, moved it to destination over its own lines, the rates over the two routes being the same. Although the shipment was consigned to a private person, it was in fact the property of the connecting line, which therefore could have hauled it free of charge from the junction point to destination. Notwithstanding the fact that the initial carrier had no notice and was not chargeable with notice that it was company material: *Held*, That the initial line is liable for the additional charges on the ground that a carrier exercising the right, under Rule 70 of Tariff Circular 15-A, to dictate intermediate routing must make its election at the time it accepts the shipment, and that if the carrier accepts the shipment with specific instructions it must so move the traffic or bear the damages arising out of its departure from the instructions. (Rule 70 is reported as ruling 214 of this Bulletin. See *Fullerton-Powell Hardwood Lumber Co. v. M. & N. F. R. R. Co.*, U. R. Op. A-367; *St. Louis Southwestern Ry. Co. v. P. & R. Ry. Co.*, U. R. Op. A-783; and *In the Matter of Transportation of Company Material*, 22 I. C. C., 439.)

144. SWITCHING SHIPMENTS UPON WHICH TRANSPORTATION CHARGES HAVE NOT BEEN PAID. (*Feb. 8, 1909.*)—A shipment was forwarded with instructions to give delivery on a certain road. The car moved over the proper route to destination, and was tendered for switching to the road indicated in delivery directions. Under long-established custom, it declined to assume responsibility for charges on the shipment and refused to accept the car until transportation charges had been paid. The carrier that brought the car in mailed a notice to the address of consignee, who was not known, and before the difficulty was straightened out demurrage accrued: *Held*, That the demurrage charges lawfully accrued and should stand.

145. A TARIFF RULE THAT IS UNLAWFUL PER SE CAN NOT BE USED. (*Feb. 8, 1909.*)—A tariff contained a rule providing that:

When freight can not be disposed of at point held for sufficient amount to realize by sale both freight and car service, or storage charges, demurrage charges may be refunded, waived, or canceled.

Held, That the performance of a transportation service determines the obligation of the carrier to collect and of the shipper to pay the published rates therefor and no subsequent fact, having no relation to the service, can lawfully be made the basis for a refund or other departure from such rates. The provision is therefore unlawful *per se* and can not be accepted as authority for a waiver, refund, or cancellation of the tariff charges even as to a shipment made while the provision was contained in the published tariff. (See note to ruling 242; compare ruling 41; also see ruling 114.)

146. IMPROPER AND UNLAWFUL TARIFF PROVISION. (Feb. 8, 1909.)—A carrier's tariff contained the following rule:

The ———— Railway reserves the right to route through to destination property delivered to it for transportation at the through rates shown in this tariff; and every carrier participating in such transportation shall have the right, in cases of necessity, including floods, embargoes, and blockades, to forward said property by any carrier between the point of shipment and the point to which the rate is given. All additional risks and increased expense incurred by reason of change in route in cases of necessity, including floods, embargoes, and blockades, shall be borne by the owner of the goods and be a lien thereon.

Held, That this rule is improper and unlawful. (Compare ruling 183; see also ruling 83.)

147. RATE MUST APPLY ACCORDING TO MOVEMENT. (Feb. 9, 1909.)—Upon the arrival of a shipment at the junction designated in the consignor's routing instructions, it appeared that, because of a washout on its lines, the connecting carrier could not accept the movement. The shipper thereupon assumed custody of the shipment and forwarded it by a water line: *Held*, That the carrier must collect its local rate to the junction point and can not apply its proportion of the through rate. (See ruling 83.)

148. RELATES TO PASSENGER TRAFFIC.

149. AMENDED RULE 14 OF THE RULES OF PRACTICE. (Feb. 9, 1909.)—(See current Rules of Practice.)

150. CARETAKERS UNDER SECTION 22 OF THE ACT. (Feb. 11, 1909.)—Section 22 of the act provides:

That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, state, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation.

Held, That the words "and necessary agents employed in such transportation" modify the entire preceding part of the section, and that the necessary caretakers of property transported for the United States, state, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, may legally be carried free or at reduced rates by carriers subject to the act, as well as the caretakers of destitute and homeless persons transported by charitable societies. The words "necessary agents" as used in this section are interpreted to mean those persons necessary to the safe and proper care of the property during the period of transportation, and may not properly be extended to cover any persons other than those who actually accompany such property and are actually necessary to its care. (Compare ruling 171.)

151. RELIEF OF AGENT DOES NOT RELIEVE CARRIER. (March 1, 1909.)—Through error, an agent inserted a route in a round-trip ticket over which the published fare was \$10 in excess of the amount actually collected from the passenger. Upon the request of the carrier for permission to relieve its agent of the uncollected undercharge: *Held*, That the collection of the amount from the agent would not in any way relieve the carrier of its responsibility for failing to collect the full tariff fare from the passenger. (See *L. & N. R. R. v. Maxwell*, 237 U. S., 94.)

152. RIGHT OF SHIPPER TO PAY FREIGHT CHARGES ON FICTITIOUS WEIGHT IN ORDER TO RECEIVE FREE ICING. (March 1, 1909.)—A consignor having a shipment of dressed poultry weighing 9,910 pounds offered to pay freight charges on the basis of 10,000 pounds in order to have the advantage of free icing under a tariff rule providing that the cost of icing would not be assumed by the carrier when the weight in each car was less than 10,000 pounds; but the carrier refused to accept the

77 cents additional freight charges and compelled the shipper to pay \$5.25 for the icing: *Held*, In analogy to the common practice of carriers to apply the carload rate and minimum on shipments of less weight where the application of the less-than-carload rate would result in higher charges, that such a tariff rule, if susceptible of the construction placed upon it by the carrier, is unreasonable and ought to be amended.

153. CARRIER WHEN A SHIPPER CAN NOT EVADE PAYMENT OF LAWFUL RATES OF A CONNECTION BY SECURING TRACKAGE RIGHTS OVER ITS LINE. (*April 5, 1909.*)—An interstate carrier desiring stone for ballast on its right of way, leased a trackage right over a short connecting line leading to a quarry, and proposed to purchase the stone at the quarry and haul it to its own line with its own crews and equipment: *Held*, That the Commission must decline to sanction the arrangement for the reason that the carrier under the circumstances is a shipper and the proposed arrangement is a mere device to evade the payment of the lawful rates and would result in unlawful discrimination. (See rulings 225, and 439; also see rulings indexed under Company Material and Divisions.)

154. Relates to Passenger Traffic.

155. MOVEMENT BETWEEN PORTS IN CONNECTION WITH RAIL HAULS TO AND FROM INLAND POINTS SUBJECT TO THE ACT. (*April 5, 1909.*)—Traffic moving by rail from an inland point to a port and thence by water to another port, or moving by water from one port to another port and from the latter port to an inland point by rail, and which does not pass into the possession or custody of the owner or his agent at the port is, when interstate traffic, subject to the act and under the jurisdiction of the Commission. (See rulings 66, 201, 354, 401, and 422.)

156. DELIVERING CARRIER MUST COLLECT LAWFUL CHARGES UPON PREPAID SHIPMENTS. (*April 5, 1909.*)—Upon inquiry: *Held*, That it is the duty of the delivering carrier to collect the lawful rates on prepaid shipments and to correct any errors that may have been made by the agents of the initial carrier in billing or in the collection by the initial carrier of the prepaid charges. (Reaffirming ruling 16; see ruling 314; also *Western Classification Case*, 25 I. C. C., 475.)

157. Relates to Passenger Traffic.

158. Relates to Passenger Traffic.

159. BILL OF LADING SPECIFYING A ROUTE, BUT NAMING A RATE APPLICABLE OVER ANOTHER ROUTE. (*April 6, 1909.*)—(Canceled by ruling 475.)

160. HIGHER RATES WHEN SHIPMENTS ARE TENDERED WITH OTHER THAN UNIFORM BILL OF LADING. (*April 6, 1909.*)—A carrier's tariff provided higher rates on shipments not tendered with a uniform bill of lading: *Held*, That the tender of a shipment accompanied by other than a uniform bill of lading may not be taken by the carrier as evidence of the shipper's election to use the higher rate. The carrier must direct his attention to the fact that a lower rate is available under the uniform bill of lading. (Compare ruling 226.)

161. Relates to Passenger Traffic.

162. MUNICIPAL FERRIES SUBJECT TO THE ACT WHEN PARTICIPATING IN TRANSPORTATION DEFINED BY THE STATUTE. (*April 12, 1909.*)—The city of New York operates a municipal ferry between St. George and the foot of Whitehall Street. The Staten Island Rapid Transit Company sells commutation tickets from Perth Amboy to the Whitehall Street pier, and files a tariff of local and joint passenger fares to cover such transportation. Upon inquiry from the commissioner of docks: *Held*, That the municipality must join in the tariffs. (Compare ruling 89.)

163. Relates to Passenger Traffic.

164. Relates to Passenger Traffic.

165. Relates to Passenger Traffic.

166. RETROACTIVE APPLICATION OF RECONSIGNING PRIVILEGE NOT PERMISSIBLE. (*April 13, 1909.*)—Adhering to *Conference Ruling 6*, the Commission will not sanction the application, retroactively, of a reconsigning privilege, even though it had long been the custom of the carrier to permit reconsignment without tariff authority. (See ruling 77.)

167. Relates to Passenger Traffic.

168. EFFECT OF TRACKAGE ARRANGEMENTS UNDER THE ACT TO REGULATE COMMERCE WITH RESPECT TO SHIPMENTS ROUTED BY SHIPPER. (*April 13, 1909.*)—The Mineral Point & Northern

Railway Company has trackage arrangements with the Chicago, Milwaukee & St. Paul for the joint use of the latter's tracks between Highland Junction and Mineral Point, Wis. Upon inquiry from the general manager of the first-named road as to whether the St. Paul rightfully may refuse to turn shipments over to it at Highland Junction, when so routed, and retain possession of the revenue for the haul from that station to Mineral Point: *Held*, On the understanding that the shipments in either case would be delivered at the same warehouse and at the same rate, that under the act to regulate commerce no obligation rests on the Chicago, Milwaukee & St. Paul to turn over shipments to the Mineral Point & Northern Railway at Highland Junction for transportation to Mineral Point.

169. *Relates to Passenger Traffic.*

170. IMPORTED MERCHANDISE NOT ENTITLED TO INLAND PROPORTIONAL RATE WHEN THE TRANSPORTATION FROM THE PORT IS PURELY LOCAL. (*April 13, 1909.*)—An importer of flax, after unloading a cargo at the port, sold it, and the purchaser some months later sold a part of the original shipment to a manufacturing company, by which it was shipped to a point in the Middle West at the regular local rate of the carrier that took the movement. At the time there was in effect an inland proportional rate from the port to destination: *Held*, That the movement from the port was a separate and distinct transaction upon which the local rate was the only lawfully applicable rate.

171. FREE TRANSPORTATION TO SHIPPERS OF PERISHABLE FREIGHT. (*May 4, 1909.*)—The tariffs of a carrier included a refrigeration service, under rates named therein, on perishable freight. Upon inquiry whether the shippers or their agents might have free transportation to inspect the reicing of the cars: *Held*, That it does not appear that they are necessary caretakers within the meaning of section 1 of the act. (Compare ruling 150.)

172. RATE IN EFFECT ON RECEIPT OF SHIPMENT IS THE LAWFUL RATE. (*May 4, 1909.*)—Freight was received by a carrier and bills of lading were issued therefor on December 21 and 29, 1908. The freight was actually moved on January 1, 1909, on which date a lower rate went into effect: *Held*, That the rate in effect on the date the carrier received the property for the transportation is the lawful rate.

173. *Relates to Passenger Traffic.*

174. *Relates to Passenger Traffic.*

175. CARLOAD SHIPMENTS. (*May 4, 1909.*)—A coffee broker purchased from three different merchants at New York three lots of coffee for shipment to one customer as one carload. The three lots were delivered to the carrier under circumstances that would have entitled them to go to destination as a carload shipment had proper instructions been given. Because of the failure of the shipper's agent to give such instructions the three lots went forward to destination as three shipments, at the less-than-carload rate. Upon inquiry by the carrier whether it might assess the carload rate: *Held*, That freight charges must be collected on the basis of the less-than-carload rate.

176. FREE OR REDUCED-RATE TRANSPORTATION TO AND FROM EXHIBITIONS. (*May 4, 1909.*)—Specimens of ore that are not to be offered for sale but are intended exclusively for exhibition at the Chamber of Mines at Los Angeles may be carried free of charge or at reduced rates, under section 22 of the act.

177. *Relates to Passenger Traffic.*

178. *Relates to Passenger Traffic.*

179. TARIFFS PROVIDING FOR TRANSPORTATION OF CARETAKERS IN PASSENGER CARS. (*May 10, 1909.*)—When an express company provides in its tariff for free transportation for caretakers in charge of live stock, poultry, or fruit, and the railroad company over whose lines such express company operates provides in its tariff that such caretakers may be permitted to ride in passenger cars, the tariff of the express company and that of the railroad company must give reference to each other.

180. LESSEE ROAD NOT SERVING PUBLIC AS COMMON CARRIER. (*May 10, 1909.*)—For operating purposes only a carrier leased 20 miles of its line to another railroad company. The contract required the lessee, for an agreed compensation to be paid to it by the lessor, to operate the lessor's trains and to maintain its way, tracks, and appurtenances, the rates and charges to be collected by the lessor

and the lessee to have no direct dealings with the public. On the facts as stated in the inquiry: *Held*, That the lessor must publish the rates, fares, and charges, and the lessee need not be a party to the tariffs nor concur therein, but is simply a contractor performing certain services for the lessor. (Compare ruling 229.)

181. SUBSTITUTION OF TONNAGE. (*June 7, 1909.*)—(Withdrawn February 10, 1913; see *The Transit Case*, 26 I. C. C., 204, 210.)

182. Relates to Passenger Traffic.

183. RESERVATION OF RIGHT TO ROUTE SHIPMENTS. (*June 7, 1909.*)—The following rule in a published tariff was approved as lawful, subject to complaint by shippers:

The A. & B. Railroad Company reserves the right to route through to destination property delivered to it for transportation at the through rates shown in this tariff, and every carrier participating in such transportation shall have the right, in cases of necessity, to forward said property by any railroad or route between the point of shipment and the point of destination, or the point to which the rate is given; but if such diversion shall be from a rail to a water route, the liability of the carrier shall be the same as though the entire carriage were by rail. (Compare ruling 146.)

(See section 15 of the amended act reserving to shippers the right to route shipments.)

184. PERFORMANCE OF TRANSPORTATION SERVICE WITHOUT RATES ON FILE. (*June 7, 1909.*)—In a recent prosecution instituted by the Commission of a carrier for engaging in transportation of interstate commerce without having previously filed with the Interstate Commerce Commission lawful tariffs applicable thereto, and in which conviction was had and fine of \$12,000 was assessed, the court, speaking through Humphrey, J., said:

It thus appears not only that the performance of interstate transportation by a carrier which has neglected to file and publish its rates and charges is a misdemeanor under the act to regulate commerce and under the Elkins Act, punishable by as severe penalties as any other violation of these acts, but it also appears that the requirement for filing and publication of the rates has been in the act to regulate commerce ever since the passage of the original Cullom bill, and that its importance has been recognized by the Congress by successive amendments designed to make it more precise and its violation more surely and more severely punishable.

The railroad line of the defendant here is entirely situated within the state of Illinois. It is not more than 16 miles in length. It is really no more than a switching road connecting the various railways reaching East St. Louis and Alton, Ill., with each other and with various industries which have been established upon its rails. From the indictment and the plea thereto it appears, however, that this defendant is engaged in the transportation of property moving wholly by railroad from one state to another state. It is, therefore, as much subject to the act as though it owned and operated all the line of railroad connecting the points in different states between which moved the commodities mentioned in the indictment. *C. N. O. & T. P. Ry. v. I. C. C.*, 162 U. S., 184; *L. & N. R. R. v. Behlmer*, 175 U. S., 648; *U. S. v. C. & N. W. R. Co.* (C. C. A.), 157 Fed. Rep., 321; *Belt Ry. Co. of Chicago v. United States*, 168 Fed. Rep., 524.

These authorities establish that the law regarding publication of rates and charges for interstate transportation applies with equal force to all carriers engaging in such interstate transportation, whether such carriers operate trains from one state to another state or operate entirely within the boundaries of a single state.

The chief object of the act to regulate commerce is the prevention of discrimination. Carriers, being engaged in a public employment, must serve all members of the public on equal terms. This was the doctrine of the common law. It has been explicitly stated and strengthened by the successive acts to regulate commerce. The requirement of the act that all rates should be published is perhaps the chief feature of the scheme provided for the effective outlawing of all discriminations. If this portion of the act is not strictly enforced, the entire basis of effective regulation will be lost. Secret rates will inevitably become discriminating rates. Whenever discriminating rates or practices are made public, a thousand forces of self-interest and of public policy will be set at work to reduce them to fairness and equality. The failure of any carrier to properly file and publish its rates is quite as

serious a violation of the act to regulate commerce as a failure to observe such rates after they have been properly filed and published. (*U. S. v. Illinois Terminal R. R. Co.*, 168 Fed. Rep., 546, 548.)

It is clearly the duty of the Commission to strictly enforce the provision of the law referred to, and it may confidently be expected that the duty will be performed. (See ruling 194.)

185. FREE OR REDUCED RATE TRANSPORTATION TO MUSEUM OF NATURAL HISTORY. (*June 7, 1909.*)—A museum of natural history, erected in a public park by private subscription and supported partly by taxes and partly by the income of funds contributed by citizens, may be given free or reduced rate transportation under section 22 of the act on articles intended for exhibition therein, notwithstanding the fact that as a means of securing additional income it charges an admission fee on certain days of the week, admission being free on other days.

186. LIABILITY FOR MISROUTING. (*June 8, 1909.*)—(Canceled by ruling 474c.)

187. INTERPRETATION OF CONFERENCE RULING No. 3. (*June 8, 1909.*)—(Restated in ruling 314.)

188. RATES BASED ON DECLARED VALUATION. (*June 14, 1909.*)—The agent of a shipper, not knowing the value of a dog to be sent by express, nevertheless named a valuation of \$500, and the resulting charges to destination amounted to \$45. The dog was actually worth \$15, and at this valuation the express charges would have been \$8. The consignee declined to accept delivery and pay the charges demanded. Upon inquiry whether charges may be collected on the basis of the actual value of the dog, it was *Held*, That the shipper is responsible for the act of his agent and that the charges at the valuation given must be collected. (Compare rulings 58 and 295.)

189. RETURN OF CARETAKERS. (*June 14, 1909.*)—A shipment of live stock moved between two points over two connecting lines. Upon inquiry by the delivering road, which had a through direct line between the two points, it was *Held*, That it can not free of charge return the caretakers over its own direct line through to the point of origin of the shipment.

190. IN THE ABSENCE OF INSTRUCTIONS, INITIAL CARRIER NOT REQUIRED TO ROUTE VIA RAIL AND WATER. (*June 14, 1909.*)—Rule 70 of Tariff Circular No. 15-A (*Conference Ruling 214*) contemplates that where rail-and-water and all-rail rates are available for a shipment the shipper shall designate which class of routing he desires and that the agent of the carrier shall secure such designation from the shipper.

A shipment was delivered to a rail carrier destined to a point to which it might be forwarded via either all-rail or rail-lake-and-rail route. No class of route was designated by the shipper. Shipment was forwarded all rail: *Held*, That taking into consideration the liabilities of carriers and the question of marine insurance upon water-borne traffic, the carrier's agent did not negligently misroute this shipment. (Interpreted in ruling 316. See *Keeton v. St. L. S. W. Ry. Co. of Texas*, 39 I. C. C., 221.)

191. CAR SERVICE CHARGES ON TRAFFIC FROM AND TO CANADA. (*June 14, 1909.*)—With respect to traffic between points in Canada and points in the United States, the Commission does not waive the requirement that carriers shall file tariffs showing their terminal charges and that such charges must either appear specifically in the tariffs naming the rates, or the tariffs establishing such charges must be specifically referred to in the tariffs naming the rates.

192. INTERPRETATION OF AMENDED RULE 70 OF TARIFF CIRCULAR 15-A. (*June 14, 1909.*)—(Canceled by ruling 474.)

193. Relates to Passenger Traffic.

194. REFUND DENIED OF DEMURRAGE COLLECTED UNDER TARIFF NOT ON FILE. (*June 14, 1909.*)—The Commission will not entertain with favor claims for refund of demurrage charges, collected in accordance with a carrier's established practice, solely upon the ground that the demurrage tariffs were not on file with the Commission at the time the demurrage charges accrued. The failure to file demurrage tariffs constitutes a violation of the act, with which the Commission will deal through the Division of Prosecutions. (See ruling 184.)

195. APPLICATION OF COMBINATION RATES ON FREIGHT MOVING THROUGH ANOTHER JUNCTION.—The conference ruling of June 14, 1909, under this caption was rescinded on November 24, 1909. Amended Rule 5, Tariff Circular No. 18-A, covers and governs the subject.

196. Relates to Passenger Traffic.

197. CARRIERS SUBJECT TO THE ACT. (*June 21, 1909.*)—A railroad not otherwise subject to the act subjects itself to the jurisdiction of the Commission and the provisions of the act if it transports express matter for an express company that is subject to the act. (See rulings 368 and 418.)

198. INTERPRETATION OF RULE 70, TARIFF CIRCULAR No. 15-A (*Ruling 214 of this bulletin.*) (*June 22, 1909.*)—Under this rule any carrier, whether it be the initial or a connecting line, that misroutes a shipment, thereby causing additional transportation charges, may, upon admitting its error, pay the damages arising therefrom, provided the whole burden is borne by it without participation therein by its connections. But the admission must be in good faith with respect to the particular case of misrouting; the Commission will not recognize the validity of any general agreement between two or more carriers by which one assumes responsibility for misrouting in all cases.

199. RESPONSIBILITY FOR MISROUTING. (*June 22, 1909.*)—When a shipper has given routing instructions which a carrier fails to transmit to its connection, the carrier so failing shall be responsible for all additional transportation charges resulting from a misrouting of the shipment. (Amended by ruling 286c. See ruling 137.)

200. REPARATION CLAIMS ON THE INFORMAL DOCKET. (*June 22, 1909.*)—(a) At a recent conference between the Commission and representatives of a number of carriers, the embarrassments arising through the tying up of rate schedules under the one year clause customarily inserted in informal reparation orders were fully considered, and the discussion that then took place as well as our subsequent reflections upon the matter, have led us to the conclusion that some modifications of our practice in that regard may be made in certain cases to advantage and without impairing the effectiveness of the law. We have therefore agreed upon the following rules which we think will afford some relief in the premises: (See rulings 14, 130, and 396.)

1. In cases where the through rate in effect at the time of the shipment was in excess of the sum of the local rates the order, instead of requiring the maintenance of an absolute rate for one year from the date of the filing of the application, shall require the absolute rate to be maintained for a period of only six months from the date upon which the reduced through rate equaling the sum of the locals became effective; this rule shall apply, however, only in cases where the local rates in question are to and from some well-recognized and established basing point or line, such as the Mississippi, Missouri and Ohio Rivers, Chicago, Minnesota Transfer, Buffalo, etc. In all other cases the present practice shall be enforced. (Modified by ruling 425.)

2. Where there is a natural geographical relation between the point involved and other points, which relation the carrier has theretofore expressed in its tariffs by grouping that point with the other points, either with respect to rates on the commodity in question, or with respect to rates on other commodities, or with respect to class rates, the order may require the maintenance of the group relation for one year from the date of the application instead of requiring an absolute rate to or from the point in question.

3. Where the rates on a product of a raw material have had a definite relation to the rates on the raw material, and that relation has been temporarily disturbed and subsequently restored, the order may control the relation for one year instead of fixing an absolute rate on the product.

4. Where a carrier is compelled to charge a higher rate than was intended because of an error in printing a tariff, the one-year clause may be omitted only where the error is specifically called to the attention of the Commission within ninety days after the tariff containing the error has been filed.

(b) Because of the uncertain condition of the tariffs of carriers, the Commission has been rather liberal in the past in the conduct of its special reparation docket, and proposes, in order to help carriers dispose of claims that have accumulated in the past, to continue this policy for the present. It is manifest, however, that the time is approaching when in the general interest of all concerned the Commission must adopt a different attitude. We take occasion, therefore, now to say that the Commission will cooperate with carriers, so far as that may legally be possible, in the effort to get all old claims disposed of, and, with respect to shipments made prior to September 1 next, will pursue its present policy of liberality. But with respect to shipments moving on and after that date

the Commission will draw the lines much more closely, and will adopt such measures as will materially narrow the scope of its activities in that connection. We are not prepared at this time to define in detail what our policy in the future will be. It may be well, however, now to say that after that date we shall not award reparation, either on the formal or the special docket, in any case where the carrier in question has reduced a rate simply in order to meet the lower rate of a competitor. Any other course of action not only deprives the competitor of the natural benefit of its lower rate, but tends to destroy the inducements for making a lower rate. Moreover, any other course of action is demoralizing in that it enables the carrier, before its own lower rate has become effective, to assure shippers that they may ship by its line notwithstanding its higher rate and afterwards secure reparation on the basis of the lower rate of its competitor. Where there is a difference in rates between two points over different lines, shippers must understand that they may get the benefit of the lower rate only by sending their merchandise over the line publishing the lower rate. (See ruling 205; also *Noble v. D., T. & I. Ry. Co.*, U. R. Op. A-510; *Trussed Concrete Steel Co. v. E. R. R. Co.*, U. R. Op. A-512 and A-513; *Athens Pottery Co. v. T. & N. O. R. R. Co.*, U. R. Op. A-796; *Isbell & Co. v. L. S. & M. S. Ry. Co.*, 19 I. C. C., 450; *Georgia-Carolina Brick Co. v. S. Ry. Co.*, 20 I. C. C., 149; *Railroad Commissioners of Montana v. N. P. Ry. Co.*, 26 I. C. C., 482; and *Puyallup & Sumner Fruit Growers' Asso. v. N. P. Ry. Co.*, 38 I. C. C., 702.)

(c) It may be well also to announce that it has been suggested that when reparation is granted to a complainant, either in a formal or an informal proceeding, on a finding that the rate under which his shipment moved was excessive and therefore unlawful, the spirit of the law requires that the order ought also to compel the carrier to make a refund on the same basis on all other shipments, moving after the date of the filing of any such complaint, under the rate thus condemned. While no conclusion has been reached there is force in this view and it will have further consideration. (See ruling 220d.)

(d) The suggestions that have come to us from various quarters in relation to the conduct of the special reparation docket indicate that some misapprehension exists as to the purpose of that docket, and as to the authority of the Commission in dealing with such cases. It may be well, therefore, to say that our action in special reparation cases has no authority in law except the authority upon which we take similar action in formal cases. In all cases, whether on the formal or the special docket, the law in section 15 specifically requires a complaint and answer and a full hearing; and in section 14 it is provided that where damages are awarded the report of the Commission shall include the findings of fact on which the award is made. We have endeavored to simplify the procedure on the special docket by accepting the application of the carrier as the equivalent of a complaint and answer, and by accepting its admission that the rate charged under the circumstances then existing was unreasonable as a sufficient compliance with the requirements of section 15 for a full hearing. The informality in the pleadings in such cases seems to have led some carriers as well as shippers into the error of supposing that special reparation cases can be disposed of still more informally. This, however, is a mistaken view of our authority. The special docket is not an informal docket in any sense except in respect to the form of the pleadings and the character of the hearing. Our orders in such cases must be regarded as formal orders as fully in all respects as our orders in formal cases. The Commission can exercise no authority on the informal docket that it can not exercise on the formal docket, nor may it omit any requirement with respect to cases on the special docket that the law imposes upon us in the disposition of cases on the formal docket. (See rulings 14 and 220.)

201. JOINT THROUGH RATES TO AND FROM PORTO RICAN PORTS. (*June 23, 1909.*)—Without at this time deciding whether Porto Rico is to be regarded as a territory of the United States as that phrase is used in section 1 of the act, the Commission will recognize the validity of joint through rates from or to points in the United States to or from a port or ports in Porto Rico when properly concurred in by the water carriers. (See rulings 66, 155, 354, 401, and 422.)

202. DISTANCE TARIFFS TO SHOW DISTANCE BETWEEN STATIONS. (*June 24, 1909.*)—Where rates are stated in a tariff at so much per mile, or according to distance, that tariff, or some tariff specifically referred to therein, must show the distances between the stations between which such

rates are to be applied. For the present, the Commission will not apply this rule to ordinary mileage tickets or books for passenger travel.

203. SUBSTITUTION OF TONNAGE IN TRANSIT. (*June 29, 1909.*)—(Cancels ruling 85. Ruling 203 withdrawn February 10, 1913; see *The Transit Case*, 24 I. C. C., 344, and 26 I. C. C., 210.)

204. TRANSIT PRIVILEGES. (*June 29, 1909.*)—It is the sense of the Commission that no transit privilege should extend beyond one year. (Qualified by ruling 232.)

205. LIABILITY FOR MISROUTING. (*June 29, 1909.*)—An initial carrier misrouted a shipment, resulting in additional transportation charges, for which it admitted its responsibility and made settlement in accordance with Rule 70 of Tariff Circular No. 15-A. (Ruling 214 of this bulletin.) Subsequently the connecting line over which the shipment moved became a party to a tariff naming the same rate that applied at the time of the movement over another route. Thereupon the initial carrier and the connecting line requested permission to divide the misrouting overcharge: *Held*, That the petition must be denied on the ground that such a course would amount to the retroactive application of a published rate. (See rulings 200*b* and 220*h*.)

206. PROCEDURE IN FORMAL CASES. (*July 2, 1909.*)—(See current Rules of Practice.)

207. PAYMENT FOR TRANSPORTATION. (*Sept. 15, 1906. Modified May 18, 1920.*)—Nothing but money can be lawfully received or accepted in payment for transportation subject to the act, whether of passengers or property, or for any service in connection therewith, it being the opinion of the Commission that the prohibition against charging or collecting a greater or less or different compensation than the established rates or fares in effect at the time, precludes the acceptance of services, property, or other payment in lieu of the amount of money specified in the published schedules. The existing difference in exchange value between the monies of the United States and the Dominion of Canada, while continuing to bear the same denomination, has been productive of confusion and uncertainty as to the construction to be placed upon tariff schedules, division sheets, and accounts in respect of traffic crossing the international boundary. We are of opinion that where transportation of persons or property or transmission of intelligence by wire or wireless takes place partly within the United States and partly within the Dominion of Canada, the tariff charges or divisions thereof accruing for the part which takes place within the United States are payable only in lawful money of the United States, irrespective of the money in which tariff charges or divisions thereof accruing for the part which takes place in the Dominion of Canada may be payable under the laws there in force.

Adjustment should be made in accordance herewith by carriers subject to the act in settling their accounts with connecting carriers. Appropriate rules or regulations to give effect to this ruling may also be included by such carriers in their tariff schedules, if they so desire.

The practice, which has grown up since development of said difference in exchange values, of requiring prepayment of charges in cases where not customarily required theretofore, tends to embarrass shippers and impede foreign commerce. Carriers subject to the act will be expected to refrain from such unusual requirements in cases where they are not justified by other considerations. (See *In the Matter of Transportation of Company Material*, 22 I. C. C., 439; *C. I. & L. Ry. Co. v. U. S.*, 219 U. S., 486; *L. & N. R. R. v. Mottley*, 219 U. S., 467; and *N. Y. Central R. R. v. Gray*, 239 U. S., 583.)

208. FREE PASSES AND FREE TRANSPORTATION. (a) Relates to Passenger Traffic.

(b) But the Commission does not construe the law as preventing a carrier from giving necessary free transportation to a person traveling over its line solely for the purpose of attending to the business of or performing a duty imposed upon the carrier, nor from giving free carriage over its line to the household and personal effects of an employee who is required to remove from one place to another at the instance of or in the interest of the carrier by which he is employed. (See rulings 109, 134, 255, 361, 478, and 479.)

(c) Nor does the Commission construe the law as preventing a carrier from giving free or reduced-rate carriage over its line to contractors for material, supplies, and men for use in construction, improvement, or renewal work on the line of that carrier, provided such arrangements for free or reduced-rate carriage are made a part of the specifications upon which the contract is

based and of the contract itself. (See rulings 386 and 413; also *Railroad-Telegraph Contracts* 12 I. C. C., 11.)

(d) Relates to Passenger Traffic.

(e) Section 22 of the act authorizes carriers to grant free or reduced-rate transportation of property for the United States, state, or municipal governments, or for charitable purposes, or for exhibition at fairs or expositions. It also authorizes free or reduced-fare transportation of certain specified persons. This special provision and the words "reduced rates" are construed to be special authority for carriers to depart from established tariff rates or fares; and for such transportation as is provided for in said section 22 it is not necessary for carriers to provide tariffs or observe tariff rates or fares and regulations excepting in the issuance, sale, and use of mileage, excursions, or commutation passenger tickets, and joint interchangeable mileage tickets. As to these, the provisions of section 6 with regard to publishing, filing, posting, and observing tariffs must be complied with. (See rulings 33, 36, 65, 218, 244, 297, and 311; compare ruling 107.)

209. DIVISION OF JOINT RATES OR FARES—CONTRACTS AND AGREEMENTS FOR, MUST BE FILED. (Nov. 16, 1906.)—A contract, agreement, or arrangement between common carriers, governing the division between them of joint rates or fares on interstate business, is a contract, agreement, or arrangement in relation to traffic within the meaning of section 6 of the act to regulate commerce, and a copy thereof must be filed with the Commission. Where such contract, agreement, or arrangement is verbal, or is contained in correspondence between the parties, or rests on their custom and practice, a memorandum of its terms must be filed with the Commission.

When the agreement or arrangement under which divisions are made is in the form of a contract or formal agreement or recorded memorandum, a copy of each such contract, agreement, or memorandum is to be filed with the Commission. Where such arrangement is made by correspondence or verbally, a concise memorandum of the basis and general terms and application of the arrangement or practice is to be filed with the Commission. The filing of the division sheets themselves is not desired. (See rulings 269 and 372; amended by order in *Division of Joint Rates on Railway Fuel Coal*, 37 I. C. C., 265.)

210. CORRESPONDENCE WITH COMMISSION ON FREIGHT AND PASSENGER MATTERS. (Nov. 16, 1906.)—It is believed that the best results and understandings will be reached if the conducting of ordinary correspondence between carriers and the Commission is confined to as few persons as possible. Request is therefore made that the traffic manager or the general passenger and general freight agents of each road designate not more than two officials or other representatives to respectively conduct the correspondence with the Commission on freight and passenger matters, and to promptly advise the Commission of such appointments.

211. DISTRIBUTION OF OFFICIAL CIRCULARS AND RULINGS. (Nov. 16, 1906.)—It is obviously impracticable for the Commission to place copies of its official circulars and rulings in the hands of all the officers of carriers or to furnish copies for distribution among them. The officers at the head of traffic departments, or in charge of the passenger and freight departments, respectively, will please designate for each road one official in the passenger department and one in the freight department (unless both are under one head officer and one appointment is considered sufficient), to whom such circulars and rulings are to be sent; and arrange for such designated officials to disseminate the information among other interested officers and agents. Please report these appointments to the Commission as early as possible.

With the view of giving prompt information to those who may be interested, the Commission will upon application place upon its mailing list regularly organized boards of trade, chambers of commerce, commercial clubs, and shippers' associations, for the purpose of mailing to them copies of official circulars containing rulings and orders of the Commission.

212. Relates to Passenger Traffic.

213. DIVERTING TRAFFIC BECAUSE OF BLOCKADES. (March 4, 1907.)—(a) Whenever, by reason of blockade upon the line of a carrier resulting from storm, washout, wreck, or similar casualty, it becomes necessary for it to divert to the line of another carrier passengers or freight that are in transit, the carrier so diverting its business should pay the carrier or carriers, upon whose train such

passengers or freight are carried, regular tariff rates or fares from and to the points between which it or they transport such diverted traffic, except that if the carrier accepting such diverted traffic is participant in a joint tariff in which the diverting line is also a participant and under which the diverted traffic is being moved, settlement may be made on basis of the division of the through joint rate of fare. (See rulings 83, 138, 146, 147, and 183.)

(b) If, because of such blockade, a carrier's train is detoured over the line of another carrier, or special train is arranged for movement of the interrupted traffic, the tariff rates or fare, if there be any for such movement, must be applied. In the absence of such tariff regulations, compensation should be agreed upon. (See ruling 138.)

This rule does not apply in cases of congested lines due to heavy traffic or ordinary causes. (See *Woodward & Dickerson v. L. & N. R. R. Co.*, 15 I. C. C., 170.)

214. ROUTING AND MISROUTING FREIGHT. (*March 18, 1907.*)—(a) Alleged neglects or errors on part of agents of carriers in misrouting shipments lead to numerous claims of overcharge, many of which are meritorious. The lawful charge on any shipment is the tariff rate via the route over which the shipment moves. No carrier can lawfully refund any part of the lawful charge except under authority so to do from the Commission or from a court of competent jurisdiction. (See ruling 286a.) That thorough understanding and uniform practice may be had in this connection, the Commission issues the following administrative ruling:

(b) In order to secure desired delivery to industries, plants, or warehouses and avoid unnecessary terminal or switching charges, the shipper may direct as to terminal routing or delivery of shipments which are to go beyond the lines of the initial carrier; and his instructions as to such terminal delivery must be observed in routing and billing such shipments. The carriers may not disregard the instructions of shippers as to intermediate routing, except when tariff of initial line reserves the right to carrier to dictate intermediate routing. When such reservation is made in tariff (1) where all-rail rates and rail-and-water rates are available the agent of carrier must have the shipper designate which of the two he wishes to use; and (2) the agent must not route shipment via a route that will be more expensive to the shipper than the one desired by him, or that does not furnish substantially as good and expeditious service. If carrier is not willing to observe the intermediate routing instructions of shipper, it must not execute bill of lading containing such routing. Carriers will be held responsible for routing shown in bill of lading. (See rulings 190, 284, and 316. Amended by ruling 321.)

(c) In the absence of specific through routing by shipper, which carrier is willing to observe, it is the duty of the agent of the carrier to route shipment via the cheapest reasonable route known to him of the class designated by the shipper—that is, all-rail, or rail-and-water—and via which he has rates which he can lawfully use. If a foreign car is available which under rules as to car service must be sent via a particular line or route over which a higher rate obtains, agent must explain to shipper that fact and allow shipper to elect whether he will use that car at the higher rate or wait for another car. If shipper elects to use the car at the higher rate, agent should so note on bill of lading. If agent is in doubt, he should secure information from proper officers of traffic department. It is important that agents at initial points be able to, and that they do, quote correct rates and give correct routings. (See rulings 91, 140, 190, 284, 316; also *United Kansas Portland Cement Co. v. M. P. Ry. Co.*, U. R. Op. A-321; *Lord & Bushnell Co. v. M. C. R. R. Co.*, 22 I. C. C., 463; *Meeds Lumber Co. v. A. & V. Ry. Co.*, 38 I. C. C., 679; *Donahue-Stratton Co. v. C. & M. St. P. Ry. Co.*, 38 I. C. C., 739; and *Chattanooga Implement & Mfg. Co. v. L. & N. R. R. Co.*, 40 I. C. C., 146.)

(d) If a carrier's agent misroutes a shipment and thus causes extra expense to the shipper over and above the lawful charges via another available route of the class designated by shipper—that is, all-rail, or rail-and-water—over which such agent had applicable rates which he could lawfully use, and responsibility for agent's error is admitted by the carrier, such carrier may, as to shipments moving subsequent to March 18, 1907, adjust the overcharge so caused by refunding to shipper the difference between the lawful charges via the route over which shipment moves and what would have been the lawful charges on same shipment at the same time via the cheaper available route of the class designated which could have been lawfully used. Such refund must in no case exceed the

actual difference between the lawful charges via the different routes as specified, and must in every instance be paid in full by the carrier whose agent caused such over-charge and must not be shared in by or divided with any other carrier, corporation, firm or person. This authority is limited strictly to the cases specified and to the circumstances recited and does not extend or apply to instances in which soliciting or commercial agents of carriers induce shippers to route shipments over a particular line via which a higher rate obtains than is effective via some other line. (See rulings 93 and 286; also *Duluth & Iron Range R. R. Co. v. C., St. P., M. & O. Ry. Co.*, 18 I. C. C., 485.)

(e) The rule is intended to apply to cases in which the agents who bill or actually forward or divert shipments through error or oversight send the shipments via routes that are more expensive than those directed by shippers or available in the absence of routing instructions by shippers. It must not be used in any case or in any way to "meet" or "protect" a rate via another route or gateway via which the adjusting carrier has not in its tariffs at the time the shipment moves rates which are available and lawfully applicable thereto, nor as a means or device by which to evade tariff rates or to meet the rate of a competing line or route, nor to relieve shipper from responsibility for his own routing instructions.

(f) (*Nov. 15, 1907.*)—The prerequisites to any refund under this rule are admission by carrier of responsibility for its agent's error in misrouting the shipment, and such carrier's willingness to bear the extra expense so caused, without recourse upon any other carrier for any part thereof. If, therefore, the error is discovered before the shipment has been delivered to consignee, or before charges demanded upon same have been paid, the carrier acknowledging responsibility for the error may authorize the delivering carrier to deliver shipment upon payment of the charges that would have applied but for the misrouting and to bill upon it for the extra charge; or, if the shipment has been delivered undercharged before the error is discovered, the carrier that acknowledges responsibility for the error may pay the undercharge to the carrier that delivered the shipment instead of requiring it to collect the undercharge from shipper, to be refunded to shipper. (Interpreted by ruling 198.)

Complete distinction must be observed between cases to which this rule applies and those provided for under ruling 217.

(g) Shippers must bear in mind that there is a limit beyond which an agent of a carrier could not reasonably be expected to know as to terminal delivery or local rates at distant points and on lines of distant roads to or with which he has no specific joint through rates. Consignors and consignees should cooperate with agents of carriers in avoiding misunderstandings and errors in routing and must expect to bear some responsibility in connection therewith. (See *What Cheer Tool Co. v. K. & M. Ry. Co.*, U. R. Op. 2159, and *Isbell & Co. v. L. S. & M. S. Ry. Co.*, 19 I. C. C., 450.)

(h) (*March 9, 1909.*)—If, under this rule, a carrier adjusts a claim for misrouting and later learns that the responsibility for misrouting actually rests upon another carrier, such other carrier may voluntarily reimburse the carrier that made the payment in the full amount of such payment, or the matter may, if necessary, be referred to the Commission for determination of the question of which carrier is responsible for the error.

(i) (*April 6, 1909.*)—Restated in ruling 474c.

215. COMBINATION OF JOINT RATE OR FARE TO COMMON POINTS AND LOCAL RATE OF FARE BEYOND. (*March 18, 1907.*)—(a) In order to secure uniformity in practice and understandings and to remove the cause of many complaints, the Commission decides that when a joint through rate or fare is the same to two or more points and rate or fare on through shipment or passenger to local station to which no specific joint through rate or fare applies is made up by combination of such joint through rate or fare to common points and local rate or fare beyond, the rate or fare for through shipment or passenger must be determined by calculating the joint through rate or fare to the point from which the lower local rate or fare applies to point of destination and adding thereto such local rate or fare. For example: Joint through tariff names the same rates or fares from certain eastern points to Chicago and Milwaukee. If shipment or passenger is destined to a point to which the local rate or fare is less from Milwaukee than from Chicago, the rate or fare applied should be the joint through rate or fare to Milwaukee plus the local rate or fare from Milwaukee to destination,

and unless the lines of delivering carrier reach both Chicago and Milwaukee the shipment or passenger should move via Milwaukee. If the local rate or fare from Chicago to point of destination is lower than from Milwaukee, the rate or fare should be the joint through rate or fare to Chicago plus the local rate or fare from Chicago to destination, and unless the lines of delivering carrier reach both Milwaukee and Chicago the shipment or passenger should move via Chicago. (See *Larrowe Milling Co. v. C. & N. W. Ry. Co.*, 17 I. C. C., 443 and 548; also *Rehberg & Co. v. Erie R. R. Co.*, 17 I. C. C., 508.)

(b) Rates or fares for outbound through movements from such local stations and under like circumstances must be applied on the same basis where the joint through rates or fares are the same from two or more points.

(c) This does not authorize any carrier to apply to transportation over its lines any rate or fare except those stated in its own lawfully published tariffs or in the lawfully published joint tariffs in which it has concurred. If a carrier desires to "meet the rate" of a competitor, it must do so by lawfully including in its own tariffs such specific rates or fares, proportional or otherwise, as may be necessary so to do. (See rulings 195 and 214.)

(d) It is suggested that shippers can assist in avoiding mistakes and misunderstandings by calling attention to the rate that should apply in such cases as come under this rule by indicating it on shipping bill in connection with routing instructions; for instance, "Rate on Milwaukee." This is, however, merely a suggestion, and does not relieve the agents of carriers from the responsibility of quoting and applying the correct lawful rate.

(e) This rule does not apply where a shipment has reached its destination as originally given by shipper and has been reconsigned, except when tariff contains reconsigning rule that provides for such application.

(f) This rule must not apply in any case where there is an applicable specific joint through rate or fare from point of origin to point of destination. (See Rule 55, Tariff Circular 18-A.)

216. Relates to Passenger Traffic.

217. RETURN OF ASTRAY SHIPMENTS. (*May 6, 1907.*)—Instances occur in which, through error or oversight on the part of some agent or employee, a shipment is billed to an erroneous destination or is unloaded short of destination or is carried by. The Commission is of the opinion that in bona fide instances of this kind carriers may return such astray shipments to their proper destination or course without the assessment of additional charges, and may arrange for such movement of such astray shipments for each other on mutually acceptable terms without the necessity of publishing, posting, and filing tariff under which it will be done. (See rulings 31 and 240.)

Complete distinction must be observed between cases to which this rule applies and those provided for under *Conference Ruling 214*.

218. TRANSPORTATION OF FEDERAL TROOPS. (*May 27, 1907.*)—The Commission is of the opinion that carriers, either by contract or bid or other arrangement with the War Department, may lawfully make special rates or fares for the movement of federal troops, when moved under orders and at the expense of the United States government, and that the rates or fares so made need not be posted or filed with the Commission. (See rulings 33 and 208*e*.)

The lawfully published rates or fares for the transportation of the general public, in the opinion of the Commission, are to be regarded, however, as the maximum rates and fares that may lawfully be charged the government for the movement of federal troops. (See *United States v. A. & V. Ry. Co.*, 40 I. C. C., 406.)

This ruling also governs similar transportation for the naval and marine services. (Ruling does not apply to state or territorial troops; see ruling 297.)

219. TRANSPORTATION OF MEN OR PROPERTY FOR TELEGRAPH COMPANIES. (*June 3, 1907.*)—

(a) In its decision on the petition of the Western Union and Postal Telegraph companies, in *Railroad-Telegraph Contracts*, 12 I. C. C., 10, the Commission held it would be unlawful for a carrier subject to the act to contract or stipulate with a telegraph company for the carriage of its officials, employees, or property for any greater or less or different compensation than that specified in the regularly published tariffs in effect at the time, except in connection with the construction, opera-

tion, and maintenance of telegraph line and service on its own line. It was held that a group of separately incorporated roads, recognized as a "railway system," may be considered as one in the making of contracts for telegraph service on that system. (Modified by ruling 491; see also rulings 95a, par. 2, 161 and 364; see also amendatory act of June 18, 1910, interpreted in ruling 305.)

(b) This definitely differentiates between the employees of the telegraph company who are actually engaged in constructing and maintaining a telegraph line along the line of a railway, or in operating such telegraph line as a part of the actual operation of that railway, and those who are engaged in the commercial business of the telegraph company. The fact that railway officials may, by use of deadhead franks, send messages on railway business from or receive such messages at a commercial office of a telegraph company does not constitute that office a part of the operation of any of the lines of railway which such officials represent, nor bring that telegraph office into such relationship with the business of the railways as to warrant treating it as part of the operating facilities of such railways. Practically all telegraphing so done is "off the line" business and is to be considered as commercial business. The same distinction is to be observed in the hauling of materials and supplies for telegraph companies with which the railway company has contract for telegraphic service. (Amended by ruling 491; see also ruling 305.)

(c) (*Nov. 15, 1907.*)—This rule applies also to telephone service, and carriers that have not already done so are hereby requested and called upon to promptly file with the Commission copies of all contracts for telegraph or telephone service on their lines. (See ruling 305.) *Rescinded* March 3, 1919 (Supreme Court Opinion, *Postal Co. v. T. & T. R. R. Co.*)

220. SPECIAL REPARATION ON INFORMAL COMPLAINTS. (*June 7, 1907.*)—(a) To assist in the settlement of certain claims of shippers against carriers, and as a practical means of disposing with promptness of informal complaints that might otherwise develop into formal complaints, and in connection with which the unreasonableness of the rate or regulation is admitted by the interested carrier or carriers, the Commission on full information will authorize adjustment by special order if all of the facts and conditions warrant such action. The connections in which the Commission has authority to modify the provisions of the law are specified in the act. The Commission will not assume to modify it in any other connections or features.

(b) The instances in which the Commission will authorize refund or reparation on informal complaint and in an informal way will be confined to those in which the informal showing develops plainly a case in which the Commission would award reparation on formal hearing and in which an adjustment agreeable to complainant and carrier or carriers and in conformity with the provisions of the law is reached.

(c) (Superseded by ruling 396.)

(d) No carrier may pay any refund from its published tariff charges save with the specific authority of the Commission in accordance with the provisions of the act. When an informal or formal reparation order has been made by the Commission, the principle upon which it is based shall be extended to all like shipments, but no refunds shall be made upon such like shipments except upon specific authority from the Commission therefor. (See rulings 49 and 200c; also *Bergerman v. A., T. & S. F. Ry. Co.*, U. R. Op. 2132.)

(e) The shipper should pay the lawfully published charges applicable via the route over which the shipment moves, and make claim for refund if he believes he has been overcharged. The Commission will not ordinarily include in reparation award demurrage charges which accrue pending adjustment or subsequent to consignee's refusal to accept the shipment and pay the lawful charges thereon, but in special cases such demurrage charges may be included in the amount of refund. (See ruling 32.)

(f) It is the duty of the delivering carrier to collect, and of the consignee to pay, demurrage charges as per lawful tariffs. Demurrage charges accruing because of error of a carrier are considered in the same light as are other additional transportation charges caused by carrier's error; and if adjusted, the full expense thereof must be borne by the carrier whose agent is responsible for the error. (See ruling 214; see also note to ruling 242, see Code of National Car Demurrage Rules; also *Middle West Coal Co. v. C. & O. Ry. Co.*, 41 I. C. C., 724.)

(g) The Commission has repeatedly announced the view that the law does not permit the use of any rate or fare except that contained in a lawful tariff that is applicable via the line, route and gateway over and through which the shipment or passenger moves. The lawful rate or fare for through movement is the through rate or fare, wherever such through rate or fare exists, even though some combination makes a lower rate or fare and even though the practice in the past has been to give some the benefit of such lower combination. The Commission long since extended to carriers, in a general order, permission to reduce, on one day's notice, a joint commodity or class rate or fare that is higher than the sum of the intermediate rates between the same points to make it equal the sum of such intermediates. If, therefore, carriers have maintained through rates or fares that are higher than the sums of the intermediates between the same points, it is because of their desire so to do, and not, as some agents of carriers have informed shippers, because the law or the Commission forces them to do so. (See Rule 56, Tariff Circular 17-A or 18-A; also ruling 443.)

(h) If a carrier desires to give its patrons the benefit of the same rate or fare that applies via another line or gateway, and which is lower than its own rate or fare, it can do so by lawfully incorporating that rate or fare in its own tariffs, and so give the benefit of it to all of its patrons alike. The law forbids giving such lower rate or fare to one and withholding it from another, but neither the law nor the Commission stands in the way of adoption in lawful manner of the lower rate or fare as available for all. (See ruling 205.)

(i) The Commission's power to authorize adjustments will not be exercised in such way as to create the very discriminations which the law aims to prevent. No doubt instances will occur in which seeming hardship will come to some. Much of such embarrassment will be avoided if agents of carriers and shippers take pains to be certain that correct rates are quoted and correct routing is given.

(j) Claims filed since August 28, 1907, must have accrued within two years immediately prior to the date upon which they are filed; otherwise they are barred by the statute. Claims filed with the Commission on or before August 28, 1907, are not affected by the two years' limitation in the act. The Commission will not take jurisdiction of or recognize its jurisdiction over any claim for reparation or damages which is barred by the statute of limitation, as herein interpreted, and the Commission will not recognize the right of a carrier to waive the limitation provisions of the statute. (See rulings 10, 306, and 307.)

221. REFUNDS AND COMMISSIONS. (*July 8, 1907.*)—(a) The act prohibits a carrier from demanding, collecting, or receiving a greater or less or different compensation for transportation than that named in its tariffs in effect at the time. It prohibits the rebating or refunding to any person in any manner, or by any device whatsoever, any part of the lawful charges so collected. It is therefore manifestly unlawful for a carrier to refund to any association, committee, or person any part of the charges collected by the carrier as a condition of the sale of transportation. A carrier's agents may, as a matter of convenience, sell admission tickets to entertainments in connection with which excursion-fare tickets are sold, but the purchase of such admission ticket must not be made a condition of the sale of transportation ticket. (See ruling 7.)

(b) (*March 1, 1908.*)—The act does not prohibit a carrier from providing in its own interest and as a means of stimulating travel over its line an entertainment at a point on its line; nor from contributing to the expense of such an entertainment if such contribution be made in a definite sum and be in no way dependent or contingent upon the number of tickets sold, and provided that no part of such contribution be by any device or through any person whatsoever permitted to effect any departure from or discrimination under the carrier's tariff fares.

(c) (*May 12, 1908.*)—The ruling of the Commission on this date, published in *Conference Rulings Bulletin No. 4*, was amended on February 14, 1911, to read as follows:

A carrier may employ an agent to act for it in working up passenger excursions and make his compensation depend upon the results of his efforts by executing a contract in the following form and filing a copy with the Commission, together with reference by I. C. C. number to the tariff which contains the fare. Any person so appointed becomes in fact the agent of the appointing carrier, and such carrier will be held responsible and liable for his acts as its agent. If any part of the compensa-

tion paid by a carrier to such an agent is used or is permitted to be used, either directly or indirectly, in such way as to reduce for any person the lawful tariff charges of any carrier subject to the act to regulate commerce, the agent or agents and the carrier or carriers causing or permitting such departure from the lawful tariff charges will be held to full responsibility and liability therefor:

The _____ rail _____ company, having arranged to run an excursion from _____ to _____ and return, on _____, to be known as the _____ excursion, at the following fares: Adults, _____; children, _____, hereby appoints _____, residing at _____, its agent to solicit and develop business for said excursion and accepts responsibility and liability for the acts of said agent. The said _____ hereby agrees to devote to this work such portion of his time from _____ to _____ as may be necessary, in consideration of which the _____ rail _____ company agrees to compensate him as follows: If _____ adult tickets, or their equivalent, are sold, _____ cents for each adult and _____ cents for each half ticket so sold.

It is understood and agreed that no compensation will be paid hereunder if less than _____ adult tickets, or their equivalent, are sold.

222. DEMURRAGE ON PRIVATELY OWNED CARS. (*April 13, 1908.*)—The Commission decided, in *Demurrage Charges on Privately Owned Tank Cars*, 13 I. C. C., 378, that private cars owned by shippers and hired to carriers upon a mileage basis are subject to demurrage when said cars stand upon the tracks of the carrier either at point of origin or destination of shipment, but are not so subject when upon either the private track of the owner of the car or the private track of the consignee. The carrier must charge demurrage in all cases where such demurrage is imposed by tariff provision upon its own equipment, except when a privately owned car is upon a privately owned siding or track and the carrier is paying or is responsible for no rental or other charge upon such car. (Modified and explained by ruling 79; see important note to ruling 242; see also Rule 75 of Tariff Circular 18-A and rulings 123 and 270 of this bulletin; and Code of National Car Demurrage Rules.)

223. DEMURRAGE ON INTERSTATE SHIPMENT. (*May 12, 1908.*)—(a) The act required that carriers shall publish, post, and file "all terminal charges . . . which in any wise change, affect, or determine . . . the value of the service rendered to the passenger, shipper, or consignee," and all such charges become a part of the "rates, fares, and charges" which the carriers are required to demand, collect, and retain. Such terminal charges include demurrage charges.

(b) On March 16, 1908, the Commission decided that demurrage rules and charges applicable to interstate shipments are governed by the act to regulate commerce, and therefore are within its jurisdiction and not within the jurisdiction of state authorities. Any other view would open a wide door for the use of such rules and charges to effect the discriminations which the act prohibits. (Reaffirming ruling 54.)

(c) (Amended and restated by ruling 135.) (See Code of National Car Demurrage Rules.)

224. TRANSPORTATION OF TRUCKS OF CARS DESTROYED ON FOREIGN LINES. (*May 12, 1908.*)—If a car of one company is destroyed on the line of another company and the lines of those two companies directly connect with each other, the carrier upon whose line the car is destroyed may transport free, as its own property, to junction with the line of the carrier owning the car, the trucks of the destroyed car, which are understood to be salvage from a wreck, the cost of which must be borne by the carrier on whose line it occurs. If there is not direct connection between the line of the carrier owning the car and the line upon which it is destroyed, the carrier on whose line the car is destroyed may transport the trucks free to a junction with an intermediate carrier, and pay to the intermediate carrier or carriers their full tariff rates for transporting them to a junction with the line of the carrier owner of the car destroyed, and such owner may transport them on its own line as its own property.

It does not appear to the Commission that opportunity for abuse or discrimination is opened by this practice. It does not appear to transgress the Commission's rule that carriers may not haul freight free for each other; and it is approved with the reservation that if discrimination or unlawful practice is found to grow out of it the plan will be condemned. (See ruling 225.)

225. CARRIERS MAY NOT BE GIVEN PREFERENTIAL RATES. (*Nov. 13, 1908.*)—(a) In answer to inquiries, the Commission expresses the opinion that under the law a carrier, or a person or cor-

poration operating a railroad or other transportation line, may not, as a shipper over the lines of another carrier, be given any preference in the application of tariff rates on interstate shipments, but it may lawfully and properly take advantage of legal tariff joint rates applying to a convenient junction or other point on its own line, provided such shipments are consigned through to such point from point of origin and are, in good faith, sent to such billed destination. In other words, one carrier shipping its fuel, material, or other supplies over the lines of another carrier must pay the legal tariff rates applicable to the same commodities shipped by an individual; but when a carrier is the consignee of a shipment of its own property which moves under a joint rate and is to participate in the haul of same via its own line, routing instructions of consignor to a specified junction point on the line of consignee carrier must be observed. There may be some instances, such as movement of needed fuel, in which, in order to keep the trains or boats moving, such traffic could temporarily be given preference in movement without creating unjust or unwarranted discrimination. (See rulings 153, 224, and 373; also *In the Matter of Restricted Rates*, 20 I. C. C., 427; *Beekman Lumber Co. v. L. Ry. & N. Co.*, 21 I. C. C., 281; *In the Matter of Transportation of Company Material*, 22 I. C. C., 440; *American Brake Shoe & Foundry Co. v. A. G. S. R. R. Co.*, 26 I. C. C., 448; and *Divisions of Joint Rates on Railway Fuel Coal*, 37 I. C. C., 266.)

(b) Where stock in one carrier company is owned by another carrier company, but both maintain separate organizations and report separately to the Commission, they may not lawfully carry property free for each other. (Restating ruling 9. See *I. C. C. v. B. & O. R. R.*, 225 U. S., 326.)

226. SIGNATURE TO RELEASED VALUATION CLAUSES ON BILLS OF LADING. (Nov. 9, 1909.)—Rule 6 of the Southern Classification provides that where the tariff offers a reduced rate based on a certain fixed valuation a release, in the form specified in the tariff and containing the agreed valuation, must be written and signed by the shipper on the face of the bill of lading. As applied to a case where the shipper indorsed the released valuation on the bill of lading, but, not knowing the requirements of the rule, omitted to indorse the special form across its face, it was *Held*, That the rule is unreasonable and that it is the carrier's duty to secure the shipper's signature to such a release on the bill of lading when it has reasonable notice of his desire to take advantage of the lower rate upon a released valuation. (Compare ruling 160.)

227. EXCHANGE BILLS OF LADING. (Nov. 9, 1909.)—It is the view of the Commission that exchange bills of lading ought to show specifically the point of origin of the shipment and the route over which it has moved. (See ruling 415.)

228. Relates to Passenger Traffic.

229. LINE JOINTLY OPERATED THROUGH SEPARATE COMPANY MUST CONCUR IN TARIFFS FOR THROUGH TRAFFIC. (Nov. 9, 1909.)—Two carriers desiring a joint operation of their combined lines between two points propose that they shall be operated by a new and separate company which shall handle as its own, and under its own tariffs, all local business between those points, and shall handle all other business under some arrangement with the two lines which does not permit it to participate in the earnings on the through traffic: *Held*, That *Conference Ruling 180*, entitled "Lessee road not serving as common carrier," does not apply and that the road operating between the two points must concur in the through rates over its line.

230. TRANSIT PRIVILEGE—RESPONSIBILITY OF CARRIER FOR MISROUTING. (Nov. 22, 1909.)—As the agent of an intermediate carrier has no means of knowing just why a shipment has been routed through particular junctions, he has no right to substitute his own judgment as to routing for the specific routing instructions accompanying the shipment. In a stated case the initial carrier issued bills of lading showing particular routing but no rate; the transfer billing subsequently issued to a connecting line showed the routing and a 10-cent division of a 33-cent rate that did not apply through the junctions named but through another junction; and the agent of the connection therefore diverted the shipment through the latter junction to destination. It subsequently appeared that because of the diversion the shipper had lost a transit right at a given point on the route specified, which was necessary to effect the sale of the shipment at destination: *Held*, That as tariffs are permitted to contain rules providing that they are subject to the transit privileges shown in the tariffs of individual carriers on file with the Commission, the intermediate line was responsible to

the shipper for the difference between the rate paid in order to get the shipment back to the transit point and the legal rate over the route directed by the shipper. (See ruling 214.)

231. CARRIER MUST FIND THE RATE NAMED BY SHIPPER AND ROUTE ACCORDINGLY OR ASK INSTRUCTIONS. (Nov. 22, 1909.)—(Canceled by ruling 474c.)

232. CREOSOTING LUMBER—TRANSIT PRIVILEGE OF EIGHTEEN MONTHS NOT EXCESSIVE. (Nov. 22, 1909.)—The Commission has expressed the view that a transit privilege extending through a period of more than one year is *prima facie* unreasonable. (Ruling 204.) Experience has shown, however, that as applied to the creosoting of lumber a period of eighteen months is not unreasonably long, provided the full local rates on the inbound material are required to be paid. (See *National Lumber & Creosoting Co. v. T. & S. F. Ry. Co.*, 42 I. C. C., 36.)

233. PARTIAL UNLOADING AT INTERMEDIATE POINT OF SHIPMENTS. (Nov. 22, 1909.)—Upon inquiry as to the legality of a practice permitting the stoppage of shipments of perishable commodities at points short of destination to partly unload: *Held*, That the practice is legal only when authorized under proper tariff rules.

234. MISROUTING RESULTING IN WRONG TERMINAL DELIVERY. (Nov. 22, 1909.)—(Restated and modified in ruling 509.)

235. DRAYAGE CHARGES. (Nov. 22, 1909.)—Certain shipments were delivered at a destination as actually routed by the consignor, but there was a general understanding with the carrier, not covered by tariff provision, that traffic should be diverted at a certain point in order to accommodate consignees located near certain team tracks on the delivering line. The agent having failed to divert the shipments at that point, the consignees were subjected to extra drayage charges: *Held*, That the claim for a refund must be rejected. (See rulings 20 and 234.)

236. CLAIMS MAY NOT LAWFULLY BE PAID UNTIL THEY HAVE BEEN INVESTIGATED. (Nov. 22, 1909.)—The Commission adheres to *Conference Ruling 68*, to the effect that it is not a proper practice for railroad companies to adjust claims immediately upon presentation and without investigation. The fact that shippers may give a bond to secure repayment in case, upon subsequent examination, their claims prove to have been improperly adjusted does not justify the practice. Carriers that have adopted that practice will be expected promptly to discontinue it. (See also ruling 462; also *Charleston & Car. R. R. v. Varnville Co.*, 237 U. S., 597.)

237. REFUND ON SHIPMENT FORWARDED TO ERRONEOUS DESTINATION THROUGH CONSIGNOR'S ERROR. (Nov. 23, 1909.)—A car of coal was forwarded to the destination named in the bill of lading, but the carrier, not being able to find the consignee and learning that a company of the same name at a nearby point was tracing a coal shipment, reconsigned it to that point without consulting the consignor, and that subsequently proved to be the correct destination: *Held*, That a refund might be allowed upon showing that the additional transportation expense fell on the consignor.

In this connection the general principle is expressed in the following rule: If a shipper sends a shipment to an erroneous destination he should have the right to guard, so far as possible, against resulting loss by disposing of the shipment at that point. The carrier should not, therefore, forward such shipment to another destination with attendant additional transportation charges without having made reasonable effort to secure disposition instructions from the shipper. (See rulings 248 and 433.)

238. Relates to Passenger Traffic.

239. CONFLICTING RATES—LOWEST RATE IS THE LEGAL RATE. (Dec. 6, 1909.)—A carrier in reissuing a tariff brought forward certain rates originally named in a previous tariff, and also slightly increased the rates named between the same points on the same commodity in a supplement to the previous tariff: *Held*, That where a tariff contains conflicting rates the lower or lowest of the rates so published is the legal rate. (Compare rulings 50, 70, 101, and 104. See *Ireland & Rollings v. St. L. & S. F. R. R. Co.*, 22 I. C. C., 592.)

240. SWITCHING MOVEMENT ANALOGOUS TO AN ASTRAY MOVEMENT. (Dec. 6, 1909.)—The yardmen of an interstate carrier being under the impression that a loaded car was empty, delivered it to a switching road by which it was switched to a loading point, and the error being there discovered it was thence switched back: *Held*, That while the switching line may treat the shipment as analogous

to an astray movement and on that account may waive its charges, if it desires to do so, it may nevertheless lawfully demand and collect of the carrier that made the error its lawful rates for the service performed. (See ruling 217.)

241. A CANAL BOAT LINE ENGAGED IN THROUGH MOVEMENTS IN CONNECTION WITH A RAIL LINE IS SUBJECT TO THE ACT AND MUST FILE TARIFFS. (*Dec. 6, 1909.*)—A canal boat line carrying traffic moving from New York City to Canadian points under an arrangement for through movement, the traffic being transferred to a rail line at Buffalo by its own agents or the agents of the railroad, is a common carrier under the act and must file tariffs with the Commission.

242. UNIFORM DEMURRAGE RULES AND PRACTICES. (*Dec. 6, 1909.*)—Recognizing the great benefits to be derived from uniformity of car-service rules, the Commission endorses the code which was reported to the National Association of Railway Commissioners and by that association recommended to the state and interstate commissions, it being understood that this action is, of course, subject to the right of the Commission to inquire into the legality or reasonableness of any rule or rules which may be the subject of complaint, and that announcement to that effect be made with the Code of Demurrage Rules.

In view of the exhaustive investigation upon which the Demurrage Code is based, it is to be understood as controlling in cases where any conference ruling previously made conflicts with any of its provisions. (See ruling 404.)

243. ROUTING INSTRUCTIONS WITH AND WITHOUT NAMING THE RATE. (*Dec. 6, 1909.*)—A shipment was routed through a certain junction by the consignor, but on the papers presented to the Commission it did not clearly appear whether he also named the rate that had been available through that junction but was canceled shortly before the movement. The instructions were complied with by the carrier and the new and higher rate applied: *Held*, That this was a shipper's error and the higher rate must be collected unless he also named in the bill of lading the lower rate legally in effect through another junction, in which case carrier was liable. (See ruling 474.)

244. REDUCED RATES ON PROPERTY FOR THE UNITED STATES OR MUNICIPAL GOVERNMENTS. (*Dec. 7, 1909.*)—Rule 61 of Tariff Circular 17-A and *Conference Ruling 65* are hereby withdrawn and the previous ruling of February 4, 1908, reported as *Conference Ruling 36*, is restored. (See rulings 208e and 311.)

245. Relates to Passenger Traffic.

246. COMPLAINTS FILED BY TRAFFIC OR CREDIT BUREAUS. (*Dec. 13, 1909.*)—While it is the policy of the Commission to entertain complaints instituted on behalf of shippers by traffic or credit bureaus, in all such cases where reparation is awarded, the order will require payment to be made by the defendant carriers either to the consignor or the consignee, as their interests may appear. (Amended by ruling 362.)

247. Relates to Passenger Traffic.

248. COLLECTION OF ESTABLISHED RATES ON RECALLED SHIPMENT. (*Jan. 4, 1910.*)—A shipment had moved 150 miles from the point of origin before the consignor discovered that an error had been made in filling the consignee's order. On inquiry by telephone he was informed by the carrier's clerk that the car could be returned without extra charge; and thereupon the consignor requested its return for a correction of the loading. A part of the carload was exchanged, the shipment was again billed out and moved to destination: *Held*, That the Commission can not relieve the carrier from the obligation of collecting the published rates for all the movements actually made. (See rulings 237 and 433.)

249. OUTBOUND CHARGES ON A SHIPMENT MAY NOT BE REFUNDED BY THE CARRIER AND CHARGED BACK AGAINST THE CONSIGNOR. (*Jan. 4, 1910.*)—A shipment having been accepted by the consignee at destination and removed to his place of business was subsequently returned to the delivering carrier; the outbound charges were refunded and included in the return waybill as advance charges. Upon delivery of the returned shipment to the original consignor the return charges, as well as such advance charges, were demanded and collected: *Held*, That the published rate for the return movement was the only charge that carrier could lawfully exact from the original consignor.

250. DEMURRAGE ON CARLOAD SHIPMENT TRANSFERRED INTO TWO CARS. (*Jan. 4, 1910.*)—(Amended and restated in ruling 357.)

251. NO REPARATION ON BASIS OF RATE NOT FILED. (*Jan. 10, 1910.*)—(Restated in ruling 419.)

252. DESTRUCTION OF DOCUMENTS. (*Jan. 10, 1910.*)—The destruction of canceled tariffs that have been posted at the stations of a carrier as required by law is not regarded by the Commission as an offense under section 20 of the act so long as a copy of the same tariff is preserved by the carrier in its general files. (See general orders of Commission relating to preservation and destruction of records.)

253. MISROUTING THROUGH ERROR OF JOINT AGENT OF TWO CARRIERS. (*Feb. 7, 1910.*)—A shipment originating on one line and not routed by the shipper reached a junction point with another line where a joint agent was maintained. Instead of delivering the shipment to the other line at that point, the joint agent permitted it to go forward on the originating line to another junction point with the second line, over which route the charges were substantially higher than if the second line had taken the shipment at its first junction with the originating carrier: *Held*, That although the agent was a joint agent, he was, with respect to this shipment, acting as agent for the originating carrier, and the cost of his error should be borne by that line alone. (See ruling 286.)

254. NO REFUND ON THE BASIS OF A RATE NOT EFFECTIVE. (*Feb. 7, 1910.*)—Through inadvertence a carrier quoted a northbound rate of 26 cents instead of a southbound rate of 29.5 cents. A sale having been effected on the basis of the rate quoted, application is made for authority to refund on that basis. Within a few months after the date of the movement the southbound rate was reduced to 17 cents: *Held*, That reparation on the basis of the northbound rate must be denied, but that an application for authority to refund on the basis of the subsequently established southbound rate would be entertained.

255. FREE TRANSPORTATION OF HOUSEHOLD GOODS OF EMPLOYEES. (*Feb. 7, 1910.*)—Upon inquiry, *Held*, That a carrier can not lawfully transport free of charge and deliver to a connection the household goods of an employee who has left its service to accept a position with another carrier. (Reaffirming ruling 109; see also ruling 208b.)

256. THE LOWEST COMBINATION OF RATES IS THE LAWFUL CHARGE, IN THE ABSENCE OF A JOINT THROUGH RATE, ONLY WHEN BOTH FACTORS ARE FILED WITH THIS COMMISSION. (*Feb. 7, 1910.*)—Upon a movement from a domestic point to a destination in Canada, charges were assessed at a combination of rates both factors of which were on file with this Commission, but which made higher than another combination over the same route one factor of which was on file with the Canadian Commission but not with this Commission: *Held*, That the Commission can not award reparation on the latter combination. (See rule 5, Tariff Circular 18-A; also see ruling 262.)

257. COMMISSARY CAR OPERATED BY A CARRIER UNLAWFUL. (*Feb. 7, 1910.*)—A carrier for 25 years has operated a commissary car making two trips monthly with a staple line of meats, groceries, and a restricted stock of shoes, overalls, and other wearing apparel. The sales are limited to employees of the company and their immediate families and are not made for cash, but on tickets signed by the company foreman showing the amount of wages due the holder. The purchases are limited to two-thirds of this amount: *Held*, That the practice is illegal.

Upon a subsequent further consideration of this inquiry it was *Held*, That the operation of such a car is in violation of the commodities clause of the act and also in violation of sections 2 and 3 in that such a practice unjustly discriminates against other persons who pay full tariff rates for the same service.

258. WAIVER OF UNDERCHARGES. (*Feb. 7, 1910.*)—(Rescinded by ruling 472.)

259. FREE TRANSPORTATION FOR RED CROSS SOCIETY. (*Feb. 7, 1910.*)—Upon inquiry it was *Held*, That interstate carriers would not be in violation either of section 1 or section 22 in according free transportation to a car occupied by the American National Red Cross society and its attendants when traveling for the purpose of giving courses of instruction looking to the prevention of accidents in mines and factories and on railroads and trolley lines, and of methods for first aid to the victims

of such accidents, the car being used also for displaying approved safety appliances and illustrating methods followed in relief work.

260. THE CREDENTIALS OF EXAMINERS OF THE COMMISSION MUST BE HONORED BY CARRIERS WHETHER PRESENTED WITH OR WITHOUT SPECIAL LETTERS OF ADVICE. (*Feb. 7, 1910.*)—While it has been the practice of the Commission, when examining the accounts of interstate carriers through the board of examiners attached to the Bureau of Statistics and Accounts, to give notice in advance to carriers, this is done for the convenience of the Commission and of the carriers and is not a requirement imposed upon the Commission by the law. The credentials of an examiner are all that is necessary to entitle him to free and full access to the carrier's records whether at its general offices or at a station or elsewhere, and the refusal to give access on the presentation of such credentials by an examiner is in violation of the law. The Commission, except in special cases where another course is desirable, will continue to give previous notice of any such examination in writing unless the refusal of the carriers to honor the credentials of examiners when presented without such notice shall make it necessary to withdraw the practice.

261. DEMURRAGE ACCRUING BECAUSE OF CARRIER'S FAILURE TO NOTIFY CONSIGNEE. (*Feb. 8, 1910.*)—Although the tariffs of a carrier provided that it would not accept shipments consigned to "Shipper's Order, Notify" where the party to be notified is not located at destination, it nevertheless accepted such a shipment and because of its failure on the transfer billing to note the shipper's instructions to notify the consignee at a distant point demurrage accrued at destination: *Held*, That the claim has no standing except upon the carrier's admission that its tariff rule was unreasonable and a showing that it has been changed; and if presented under such conditions and acted upon favorably the order would require the maintenance of the newly established rule for a period of one year.

262. MISQUOTATION OF CANADIAN RATES. (*Feb. 8, 1910.*)—Upon inquiry as to the rates on a locomotive "on cars" from a point in New York to a point in the Province of Quebec, the carrier quoted a rate to Sherbrooke and a 7-cent local rate beyond, at 20 per cent less than the actual weight. Charges were collected upon that basis and the carrier now applies to the shipper for payment of an undercharge arising out of the fact that the tariff naming the rate beyond Sherbrooke contains no provision for a deduction from the actual weight of the shipment. The shipper makes the point that the rate beyond Sherbrooke is a Canadian rate and that the domestic carrier is therefore not prohibited by the act from adjusting the charges on the basis of the rate quoted by it: *Held*, That it would be a violation of law to omit the collection of the undercharge. (Also see ruling 256.)

263. Relates to Passenger Traffic.

264. CARLOAD MINIMUM UNDER A JOINT THROUGH RATE. (*Feb. 14, 1910.*)—A tariff named a joint through carload rate from A to D of \$1 and provided that as to 30 cents of the rate the minimum weight should be 20,000 pounds, and as to 70 cents of the rate the minimum should be 12,000 pounds. The Commission declined to entertain an informal request for reparation on the basis of that rate until the tariff was changed; and it was said that if the tariff were not changed a formal complaint would be entertained: *Held also*, That where two or more carriers publish a joint through rate they must publish in connection therewith one carload minimum weight for the through movement under that rate. This ruling is not to be understood, however, as condemning the publication in joint tariffs and the use of through rates made up in combination on a specific base point and providing one minimum weight in connection with the specified portion of the rate up to the base point and a different minimum weight in connection with the specified portion of the rate beyond the base point.

265. Relates to Passenger Traffic.

266. Relates to Passenger Traffic.

267. GRAIN-DOOR ALLOWANCES. (*March 7, 1910.*)—Tariffs authorizing allowances for grain doors do not conform with *Conference Ruling 78* unless they state both the maximum allowance per car and the maximum allowance per grain door. (See rulings 119, 132, and 360.)

268. Relates to Passenger Traffic.

269. PUBLISHED DIVISIONS OF THROUGH RATES TO AND FROM MEXICO. (*March 7, 1910.*)—The purpose of Rule 72 of Tariff Circular No. 18-A, requiring the domestic carriers to publish their

divisions of rates to and from Mexico, is to give to this Commission definite information as to their lawful earnings and was not intended as a means of exercising any jurisdiction over carriers in Mexico. (See ruling 209.)

270. DERRICK AND SIMILAR CONSTRUCTION CARS ARE NOT ORDINARILY SUBJECT TO DEMURRAGE CHARGES. (*March 7, 1910.*)—In the absence of specific tariff provision therefor, demurrage does not accrue on derrick cars, pile-driver cars, and similar cars that are not and ordinarily can not be unloaded, when owned or leased by a contractor doing construction work on the line of the carrier concerned, or when standing upon storage tracks. (Qualifying ruling 222; see also ruling 123.)

271. DESTRUCTION OF DOCUMENTS. (*March 8, 1910.*)—The regulations of the Commission respecting the preservation and destruction of the records and documents of common carriers also apply to the records and documents of all joint agencies maintained by or on behalf of carriers subject to the act.

272. Relates to Passenger Traffic.

273. SHIPMENT TRANSFERRED IN TRANSIT FROM ONE LARGER CAR TO TWO SMALLER CARS. (*March 15, 1910.*)—For a through shipment of an emigrant outfit the initial carrier, at the request of the consignor, furnished a 40-foot car which became out of order while on its line. At the junction point the connecting carrier transferred the shipment into two 36-foot cars, and in that form it moved to destination on the line of a third carrier. There was no joint through rate, but the second and third carriers maintained a rate for a 36-foot car, all weight in excess of a given minimum to be charged for proportionately, the tariff, however, expressly forbidding the use of larger equipment. At destination, charges were collected on the basis of two carloads from the point of transfer: *Held*, That in transferring the shipment, the connecting carrier ought to have loaded the full minimum weight into one car and to have adjusted the charges on the balance of the shipment in the second car at less-than-carload rate. (Compare ruling 357.)

274. LARGER CAR FURNISHED AT CONVENIENCE OF INITIAL LINE UNDER TARIFF AUTHORITY FOR APPLYING THE MINIMUM ON THE SMALLER CAR ORDERED, CONNECTING LINE NOT PUBLISHING SUCH PROVISION. (*March 15, 1910.*)—(a) Complaints of alleged overcharges arise in connection with shipments that move over the lines of two or more carriers under combination rates, the initial carrier having a provision in its tariff that in case a car of certain dimensions or capacity is ordered by a shipper, and the carrier for its own convenience furnishes a larger car, such larger car may be used on the basis of the minimum weight applicable to the car ordered, while the connecting carrier does not have such tariff provision and therefore charges for the full minimum weight applicable to the car used. (See rule 66 of Tariff Circular 18-A.)

(b) The law imposes upon carriers the obligation of arranging to every reasonable extent for through carriage and through shipment. Neither the burden of following his shipment to a connecting point between two carriers and there transferring it, nor of bearing the expense of such transfer, can be laid upon the shipper. It is not deemed reasonable that in a case of this kind the shipper should be required to pay higher charges than he would have paid had the initial carrier furnished the equipment that is provided for in its tariff and that was ordered by the shipper. The carriers in the different classification territories ought to have, and should provide at the earliest practicable moment, a uniform rule on this subject.

(c) It is believed that where the initial carrier provides in its tariffs that if for its own convenience it furnishes a car larger than that ordered by the shipper, it will be used upon the basis of minimum weight applicable to the car ordered, and the connecting carrier to or over whose lines such shipment is moved has not such provision in its tariff, the initial carrier should note upon the bill of lading and upon the waybill or transfer bill, which accompanies delivery of a shipment to its connections, the fact that car of certain size was ordered and car of certain size was for its own convenience furnished by the carrier to be used on the basis of the minimum weight applicable to the car ordered; and that connecting carrier, receiving such notice on the waybill or transfer bill and not having provision in its tariff which permits the use of the car on the basis of the lower minimum weight, should transfer the shipment into car of the size or capacity ordered by the shipper or into car to which the same minimum weight applies, without additional expense to the shipper.

This ruling outlines the policy which the Commission will follow in cases of this nature which may be brought before it. It is, of course, understood that shipper may not demand any car that is not provided for in the initial carrier's tariff. (See ruling 339; also *Gisholt Machine Co. v. C. & N. W. Ry. Co.*, U. R. Op. A-618.)

275. Relates to Hours-of-Service Law.

276. DEMURRAGE CHARGES—TARIFF AUTHORITY THEREFOR. (*April 4, 1910.*)—A consignor while loading cars at the point of origin detained them for several days before they were billed out for movement to interstate destinations. The initial carrier issued a tariff providing for demurrage, but the tariff naming the rate applicable on the movements neither provided demurrage charges nor referred to the initial carrier's tariff where such charges were specified: *Held*, That there was sufficient tariff authority for the collection of the charges by the initial carrier.

277. Relates to Passenger Traffic.

278. Relates to Passenger Traffic.

279. APPLICATION OF RATES ON ARTICLES SOLD UNDER TRADE NAMES. (*April 5, 1910.*)—A compound described under its technical name in the tariff carrying the rate is offered for shipment and sold by a manufacturer under a trade name: *Held*, That while the packages may bear the trade name of the article, the shipper is not entitled to the rate applicable on the specified compound unless the packages, as tendered for transportation, are also labeled so as to indicate that they contain the compound.

280. ESTIMATED WEIGHTS PER PACKAGE. (*April 5, 1910.*)—Sometimes a transportation rate is stated to be a certain sum per package, and sometimes the rate is stated in cents per 100 pounds, and it is provided that the package will be taken at a stated estimated weight. Changes in size or dimensions of packages and disagreements as to the size or dimension upon which the estimated weight was fixed have caused troublesome complications. In so far as, and whenever it is practicable, the size and dimensions of such packages should be clearly and accurately described and defined in the tariff.

281. A CONCURRENCE BY ONE CARRIER IN THE TARIFFS OF ANOTHER DOES NOT LEGALIZE THE USE BY THE FORMER OF THE LOCAL RATES OF THE LATTER. (*April 11, 1910.*)—A tariff published by one carrier in addition to certain joint through rates also named local rates between two points on its line that were also served by the lines of another and concurring carrier: *Held*, That the local rates of the carrier that published the tariff could not be recognized as the rates of the concurring carrier on local movements between the two points in question.

282. JOINT RATE REDUCED TO THE SUM OF THE LOCALS, MINIMUM WEIGHT BEING INCREASED. (*April 11, 1910.*)—(Rescinded by ruling 338.)

283. DRAYAGE CHARGE RESULTING FROM MISROUTING. (*May 10, 1910.*)—Modified and restated in ruling 509.

284. INTERPRETATION OF MISROUTING RULING No. 214. (*May 10, 1910.*)—(Superseded by ruling 316.)

285. Relates to Passenger Traffic.

286. ADJUSTMENT OF CLAIMS FOR DAMAGES RESULTING FROM THE MISROUTING OF FREIGHT, (*May 10, 1910.*)—(a) The Commission holds that it has exclusive jurisdiction over claims for damages arising from the misrouting of freight. (See rulings 139 and 214.)

(b) The statute of limitations embodied in section 16 of the act to regulate commerce, as amended, governs misrouting claims, and thereunder the Commission is without jurisdiction to take cognizance of claims presented more than two years after the delivery of shipments at destination. (See ruling 139; also *Phillips v. Grand Trunk Ry.*, 236 U. S., 662.)

(c) If a connecting line accepts a shipment at the junction point without routing instructions it will be held responsible for any excessive charges that may directly accrue from its error in forwarding the shipment to destination via any other than the cheapest available route. (Amending rulings 137 and 199. See *Duluth & Iron Range R. R. Co. v. C.*, *St. P. M. & O. Ry. Co.*, 18 I. C. C., 485; and *American Lumber & Export Co. v. A., T. & N. R. R. Co.*, 42 I. C. C., 260.)

(d) (Restated in ruling 509.)

(e) The Commission will exercise jurisdiction to award damages as against the carrier guilty of misrouting to the extent of the additional cost thus imposed on the delivering carrier.

(f) (Amended and restated in ruling 474c.)

287. Relates to Hours-of-Service Law.

288. COMPETENCY OF RAILROAD EMPLOYEES—CONDITION OF SIGNAL DEVICES. (Oct. 3, 1910.)—Upon inquiry: *Held*, That, except in cases of accident, the Commission has no authority under the act to regulate commerce to look into the competency of railroad employees or the physical condition of block signals, and makes no general investigations of that nature.

289. POSTING NAMES OF RESIDENT AGENTS AT BLIND SIDINGS. (Oct. 4, 1910.)—The act requires a carrier to post the name of its resident agent in every office, warehouse, depot, or station building at which freight is received. But upon inquiry: *Held*, That this is not necessary at blind sidings where there is no station agent or any station building at which freight is received. (See ruling 86.)

290. Relates to Passenger Traffic.

291. PARAGRAPH 5 OF SECTION 15 OF THE AMENDED ACT DOES NOT APPLY TO TELEGRAPH COMPANIES. (Oct. 11, 1910.)—Upon inquiry: *Held*, That the paragraph of section 15 of the amended act to regulate commerce giving the shipper the right to route his shipments does not apply to telegraph companies. (Also see Routing.)

292. ALLOWANCES FOR FLOOR RACKS IN REFRIGERATOR CARS ANALOGOUS TO GRAIN-DOOR ALLOWANCES. (Nov. 7, 1910.)—Certain carriers filed tariffs providing that when refrigerator cars without floor racks are set for loading, and shippers are required to furnish floor racks to protect the freight loaded, allowances will be made equal to the cost of the racks, but not to exceed \$2.50 per car. The question of the lawfulness of such tariffs being under consideration: *Held*, That the principle involved is the same as that relating to grain doors furnished by shippers. (See rulings 19, 78, 132, 267, and 360.)

293. RATES OR FARES PUBLISHED SUBSEQUENT TO FEBRUARY 17, 1911, IN VIOLATION OF SECTION 4 AS AMENDED. (Nov. 7, 1910.)—Subsequent to February 17, 1911, any rate, fare, or charge maintained or imposed in violation of the long-and-short-haul provision of the fourth section of the act as amended, which rate, fare, or charge is not covered by an order of the Commission granting relief from the provisions of the section, or by pending application for such relief, will be held not to be brought into conformity with said section by a change in classification; cancellation of commodity rate leaving class rate or combination rate to apply; cancellation of a rate with provision that in lieu thereof a rate in some other tariff shall apply; correction of error in tariff; addition or elimination of routes without change in list of participating carriers; or by any other change which does not leave the rate, fare, or charge free from conflict with the law. (See rulings 299, 304, and 318.)

294. TRANSPORTATION FROM FOREIGN COUNTRIES NOT ADJACENT THROUGH THE UNITED STATES TO AN ADJACENT FOREIGN COUNTRY. (Nov. 7, 1910.)—(Withdrawn November 11, 1912; see *Seymour v. M. L. & T. R. R. & S. S. Co.*, 35 I. C. C., 492.)

295. RATES BASED ON VALUE OF MERCHANDISE. (Nov. 7, 1910.)—Carriers may lawfully establish schedules of charges applicable to a specific commodity and graduated reasonably according to value. When such rates are published shippers are entitled to the rate corresponding to the actual value of the property offered by them for transportation. Shippers are not entitled under such rates to understate the actual value of shipments for the purpose of obtaining the rate applicable upon articles of less value. The valuation stated to carriers should correspond with the actual value as shown by invoices, etc. Shippers misstating the value of property for the purpose of obtaining the rate applicable to property of less value are guilty of misbilling and are subject to prosecution under section 10 of the act to regulate commerce. (See ruling 58; compare ruling 188; see also *The Cummins Amendment*, 33 I. C. C., 696; and *Express Rates, Practices, Accounts, and Revenues*, 43 I. C. C., 510.)

296. POWER TO REQUIRE ADDITIONAL PASSENGER TRAIN SERVICE. (Nov. 8, 1910.)—(a) Upon complaint of a resident at a suburban station that sufficient trains are not run to and from New

York City during the morning and evening hours to accommodate commuters: *Held*, That the Commission is without authority to require the running of additional trains.

(b) Upon complaint of the discontinuance of a daily accommodation train between Washington and a rural community 27 miles distant: *Held*, That the Commission is without power to grant relief.

297. FREE AND REDUCED RATE TRANSPORTATION OF PERSONS TRAVELING AT THE EXPENSE OF STATE OR TERRITORIAL GOVERNMENTS. (*Nov. 8, 1910.*)—*Conference Ruling 218* is confined to movements at the instance and expense of the United States. The Commission finds nothing in the law authorizing free or reduced rate transportation of persons, other than indigents, traveling at the expense of a state or territorial government. (See rulings 208*e* and 452.)

298. Relates to Passenger Traffic.

299. APPLICATION OF SECTION 4, AS AMENDED JUNE 18, 1910, TO EXPORT AND IMPORT RATES. (*Dec. 17, 1910.*)—(a) Inland export and import rates are subject to the provisions of the act and within the jurisdiction of the Commission.

(b) The fourth section of the amended act forbids carriers subject thereto, without authority from the Commission in accordance with said section, to charge more for the transportation of a like kind of export or import traffic for a shorter than for a longer haul over the same line in the same direction; that is, as we understand the law, the validity of a rate under this section is determined by comparison of an export rate with an export rate, or an import rate with an import rate.

(c) So far as the fourth section is concerned, carriers are not required in the first instance to establish export and import rates which shall be measured and limited by domestic interstate rates between the same points of origin and destination in the United States; but as export and import rates, as well as domestic interstate rates, are subject to the provisions of the act and the jurisdiction of the Commission, it is clear that the reasonableness of any of these rates under the provisions of section 1 and questions of discrimination under the third section, may all be considered and the Commission may condemn any discrimination in export and import rates, upon comparison with those applicable on domestic interstate traffic, to the extent that the same may be found unjust or unreasonable in any particular case upon investigation and full hearing.

(Section 4 as amended is also interpreted in rulings 293, 304, 318. See *Import Rates on Mangane Ore*, 12 I. C. C., 666.)

300. BROKERAGE CHARGES BY EXPRESS COMPANIES ON SHIPMENTS FROM ABROAD. (*Jan. 14, 1911.*)—A suit case consigned from London in care of an express company at New York City for further transportation inland by express was appraised by the customs officials, with its contents, at the sum of \$363. Upon complaint of a charge of \$3 exacted by the express company for its services in clearing the shipment through the customs house, no scale of such charges being filed with this Commission, it was *Held*, That brokerage charges of this nature are not within the jurisdiction of the Commission, not being a part of the transportation service. (See rulings 7, 221, and 444.)

301. Relates to Passenger Traffic.

302. TELEGRAMS RELATING TO SHIPMENTS. (*Feb. 13, 1911.*)—Telegraphic instructions or inquiries made by shippers to or of a carrier in relation to their shipments may not properly be paid for by the carrier unless so provided in its published tariffs; a telegram sent by the carrier to the shipper relating to his traffic, and his reply thereto, pertain to the business of the carrier and may be sent at its expense. (Construed by rulings 327 and 351; see rulings 363, 480.)

303. Relates to Passenger Traffic.

304. APPLICATION OF SECTION 4 AS AMENDED JUNE 18, 1910. (*March 13, 1911.*)—(a) The fourth section applies to all rates and fares, but in determining whether its provisions are contravened, rates and fares of the same kind should be compared with one another; that is, transshipment rates should be compared with transshipment rates; proportional rates with proportional rates; excursion fares with excursion fares; and commutation fares with commutation fares. It would not be in violation of the fourth section, for instance, if a proportional rate to or from a given point were lower than the regular rate to or from an intermediate point, nor if the commutation fare to or from a more distant point were lower than the regular fare to or from an intermediate

point. (Rulings 309, 310. See *Southern Illinois Millers Asso. v. L. & N. R. R. Co.*, 23 I. C. C., 673; and *Rates on Grain and Grain Products to Texarkana, Ark.*, 29 I. C. C., 36.)

(b) A proportional rate is defined as one which applies to part of a through transportation which is entirely within the jurisdiction of the act to regulate commerce; that is, the balance of the transportation to which the proportional rate applies must be under a rate filed with this Commission. A rate to a port for shipment beyond by a water carrier not subject to the provisions of this act would not be a proportional rate. (See *Crescent Coal & Mining Co. v. C. & E. I. R. R. Co.*, 24 I. C. C., 155.)

The foregoing holding is not intended to approve the lawfulness of any existing transshipment rate.

(c) An excursion rate is one which provides for a return to the initial point or some corresponding point.

(d) Where from the absorption of a switching charge it results that the total transportation charge from a more distant point to the point where the property is delivered is less than the total transportation charge from or to an intermediate point, the fourth section is violated. Owing, however, to the very general practice of absorbing switching charges from competitive and not from noncompetitive stations, and in view of the fact that much benefit and little complaint results, the Commission will, by general order, permit a continuance of this practice, reserving for consideration and determination individual cases which may require special consideration. (Such an order was entered March 20, 1911.)

(e) If a carrier has been given authority to maintain from or to noncompetitive intermediate points rates higher than those from or to more distant competitive points and a new intermediate station is opened, rates from or to such intermediate station which are the same or in harmony with those authorized may be established by the carrier without special authority from the Commission.

(f) If a carrier is authorized to maintain rates to or from a given point which are not in conformity with the fourth section, it may establish rates upon branch lines connecting with the main line at these points which are higher than such intermediate rates by arbitraries or by the branch-line locals, without special authority from the Commission.

(Section 4 as amended is also interpreted in rulings 293, 299, 318.)

305. Relates to Application of the Amended Act to Telegraph and Telephone Companies.

306. STATUTE OF LIMITATIONS NONOPERATIVE AS BETWEEN CARRIERS. (*April 3, 1911.*)—Before the expiration of two years a delivering line discovered and at once refunded an overcharge; upon demand made by it after the two years had expired a connecting line declined to repay its share, on the ground that the statute had run: *Held*, That in such cases the statute does not run as between carriers. (See rulings 10, 220j, and 307.)

307. CLAIMS BARRED BY THE STATUTE OF LIMITATIONS. (*April 3, 1911.*)—Overlooking a higher through rate, charges were collected on the sum of the intermediate rates. After two years had expired, the through rate was reduced to that basis, and still later the balance of the through rate legally in effect on the date of the shipment was collected. Upon presentation of the claim some months later: *Held*, That it was barred by the statute, and that the case is controlled by *Blinn Lumber Co. v. S. P. Co.*, 18 I. C. C., 430. (See rulings 10, 220j, 306, and 508.)

308. Relates to Passenger Traffic.

309. Relates to Passenger Traffic.

310. Relates to Passenger Traffic.

311. FREE TRANSPORTATION OF PROPERTY FOR COUNTY AUTHORITIES. (*April 4, 1911.*)—(Restated in ruling 452.)

312. TERMINAL COMPANIES SUBJECT TO ACT. (*April 4, 1911.*)—Upon inquiry: *Held*, That terminal companies must file statistical reports as required by the Commission.

313. DEMURRAGE RULES. (*April 10, 1911.*)—(See Code of National Car Demurrage Rules indorsed by the Commission, January 17, 1916.)

314. COLLECTION OF UNDERCHARGES. (*May 1, 1911.*)—The law requires the carrier to collect and the party legally responsible to pay the lawfully established rates without deviation therefrom. It follows that it is the duty of carriers to exhaust their legal remedies in order to collect undercharges from the party or parties legally responsible therefor. It is not for the Commission, however, to determine in any case which party, consignor or consignee, is legally liable for the undercharge, that being a question determinable only by a court having jurisdiction and upon the facts of each case. (Superseding rulings 3 and 187. See also rulings 16 and 156 and *Y. & M. V. R. Co. v. Zemurray*, 238 Fed., 789.)

RULING INTERPRETED. (*May 4, 1918.*)—In conference ruling 314 the Commission held it to be the duty of common carriers to exhaust their legal remedies to collect undercharges. But the Commission has pointed out from time to time and now holds that this ruling does not require the filing of a suit where the party liable for the undercharge cannot be located, or service cannot be made, or where upon investigation by the carrier in good faith it is found that legal process would be futile and ineffectual.

315. Relates to Passenger Traffic.

316. CONFERENCE RULING 284 SUPERSEDED. (*May 1, 1911.*)—Upon inquiry as to the application of *Conference Rulings 190 and 214* to routes made up partly of a car ferry: Held, That routes involving the transshipment of freight from a rail line to a water line, or from a water line to a rail line, are "rail-and-water routes," and that routes composed of rail lines connected by car ferries over which the freight is ferried in the car constitute "car-ferry routes" and are understood to be included in the general term "all-rail." (See *Hollingshead & Blei v. P. & L. E. R. R. Co.*, 18 I. C. C., 193.)

Held further, That where a shipper does not specify a particular route or a rail-and-water route, the carrier's agent must consider car-ferry routes as available in performing the duty of routing a shipment over the cheapest route. (See ruling 190, interpreting ruling 214.)

317. ERRORS IN TRANSMISSION OF TELEGRAPHIC MESSAGES (*May 2, 1911.*)—Upon inquiry: Held, That the Commission has no jurisdiction over claims for damages due to alleged errors in the transmission of telegraphic messages. (See *Unrepeated Message Case*, 44 I. C. C., 670.)

318. APPLICATION OF FOURTH SECTION WHEN ONE OR MORE POINTS ARE IN A FOREIGN COUNTRY. (*May 8, 1911.*)—The fourth section does not apply when the more distant point and the intermediate point are in a foreign country; nor when the point of origin and point of destination are both in the United States and the intermediate point is in a foreign country. (See rulings 293, 299, 304, and 447.)

319. Relates to Passenger Traffic.

320. Relates to Passenger Traffic.

321. SHIPPER MAY DIRECT TERMINAL ROUTING. (*June 2, 1911.*)—In view of the amendment to section 15 of the act, paragraph (b) of *Conference Ruling No. 214* is now amended so as to read as follows:

(b) In order to secure desired delivery to industries, plants, or warehouses and avoid unnecessary terminal or switching charges, the shipper may direct as to terminal routing or delivery of shipments which are to go beyond the lines of the initial carriers; and his instructions as to such terminal delivery must be observed in routing and billing such shipments. When shipments are accepted without specific routing instructions from shipper, where all-rail rates and rail-and-water rates are available, the carrier's agent must have the shipper designate which of the two he wishes to use. Carriers will be held responsible for routing shown in bill of lading. (See rulings 190 and 316.)

322. SUSPENSION OF TARIFF SCHEDULES. (*June 2, 1911.*)—The authority conferred on the Commission by the amendatory act of June 18, 1910, to suspend schedules stating new individual or joint rates, fares, or charges, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, was not intended to withdraw from carriers the right to initiate their rates, fares, charges, and regulations and does not mean that in every case of advanced rates or charges the schedules should be suspended. The statute vests a

discretion in the Commission in that regard and contemplates that it will be exercised in a judicial spirit. Except in cases where it acts on its own initiative, the Commission will not ordinarily suspend the operation of a schedule unless the changes complained of are called to its attention at least 10 days before the effective date of the schedule, thus giving the Commission time in which to act intelligently and to avoid discriminations that might result from the improper suspension of a schedule.

Requests for such action by the Commission should be made in the form of a complaint indicating the schedule by its I. C. C. number and specifically referring to the parts thereof as to which suspension is asked, together with reasonably detailed explanations as to the probable effect of the proposed new rates, fares, etc.

323. OFFSETTING OF UNDER OR OVER CHARGES. (*June 8, 1911.*)—It appearing that some confusion has been caused by the Commission's *Conference Rulings Nos. 48, 133*, and its ruling of February 14, 1911, the following is issued in lieu of the three rulings above mentioned:

The Commission has no authority to control the disposition of an overcharge. The carrier must charge no other than its lawful rate, and the failure to collect the full rate as to any shipment is a violation of the law, as is the collection of more than the full rate. The Commission declines to declare that an overcharge may be offset as against an uncollected undercharge; such offset is not within the power of the Commission to authorize or condemn. (See *Illinois Cent. R. R. Co. v. W. L. Hoopes & Sons*, 233 Fed. Rep., 135.)

324. DIVISIONS ON COMPANY COAL. (*June 19, 1911.*)—Upon inquiry: *Held*, That it is unlawful for carriers to make special and discriminatory divisions of joint rates upon locomotive fuel as between an originating or participating carrier and a purchasing carrier. In the division of joint rates a railroad must be treated precisely as any other shipper is treated, and the Commission will regard any special division as a device to defeat the published rate. All divisions upon fuel coal must be made in good faith without respect to the fact that one of the carriers is the purchaser of such coal. (See *Rates on Railroad Fuel and Other Coal*, 36 I. C. C., 1, and order in *Divisions of Joint Rates on Railway Fuel Coal*, 37 I. C. C., 265; also ruling 486.)

325. LEASE OF LAND BY SHIPPER FROM A CARRIER AT NOMINAL RENTAL UNLAWFUL. (*June 20, 1911.*)—Under a lease in which a nominal rental is reserved a private person has erected a grain elevator upon land belonging to an interstate carrier: *Held*, That the arrangement constitutes an undue preference. (See rulings 94 and 421.)

326. Relates to Passenger Traffic.

327. TELEGRAMS RELATING TO SHIPMENTS—RULING 302 CONSTRUED. (*October 10, 1911.*)—Telegrams from a shipper relating to his traffic must be paid for by him, but a carrier may lawfully answer such a message at its expense. (See rulings 302, 351, 363, and 480.)

328. SAFETY APPLIANCES—CARS OF SPECIAL CONSTRUCTION. (*Nov. 6, 1911.*)—Locomotives while equipped with snowplows or flangers are to be regarded as cars of special construction within the meaning of the order of March 13, 1911.

329. SAFETY APPLIANCES—ORDER OF MARCH 13, 1911, CONSTRUED. (*Nov. 6, 1911.*)—The order entitled "United States Safety Appliance Standards," adopted on March 13, 1911, is interpreted with respect to the details mentioned as follows:

1. That gondola and ballast cars with swinging side doors at ladder locations may be considered as cars of special construction.

Ladders and handholds need not be applied to swinging side doors.

A side vertical handhold shall be placed on corner post of such cars, as nearly as possible over sill step.

2. That high-side gondola and ballast cars with end platforms 18 inches or more in length may be considered as cars of special construction.

Ladders shall be placed on such cars as prescribed for high-side gondola and hopper cars, with sill step under ladder, or as near under ladder as car construction will permit. Ends and side of cars to be equipped with handholds in the same manner as flat cars.

3. Ladders—spacing of ladder treads. That the spacing of top ladder treads shall be taken from eave of roof at side of car, whether latitudinal running board is used or not. (Shown on plates illustrating United States safety appliance standards, issued by the Commission, July 1, 1911.)

4. Box and other house cars—automobile cars with swinging end doors—end ladders:

That these cars may come under the head of cars of special construction, as per clause on page 37 of the order, and the end ladders placed as nearly as possible to designated location.

330. FREE CARRIAGE OF RAILWAY Y. M. C. A. LIBRARY BOOKS. (*Nov. 14, 1911.*)—It is not unlawful for an interstate railroad to carry without charge, for use by railway employees, books belonging to the libraries of Railway Young Men's Christian Associations.

331. TRANSFER OF SHIPMENT IN TRANSIT TO ANOTHER CAR. (*Nov. 14, 1911.*)—A shipment started to move under a joint through rate and an established minimum for the car of the size in which it was loaded, but for the convenience of the carrier was subsequently transferred into a smaller car taking a lower minimum under the same through rate. Charges were collected on the actual weight, which was in excess of the lower and less than the higher minimum weight: *Held*, That where a joint through rate is in effect the through charges are not affected by such a transfer of the shipment in transit from one car to another whether larger or smaller; and that the through charges here should have been collected at the joint through rate and on the basis of the minimum weight applicable on the car ordered or accepted by the consignor for the movement. (See rulings 273, 274, 339, and 357.)

332. CARRIERS FAILING TO OBEY ROUTING INSTRUCTIONS LIABLE TO PROSECUTION. (*Dec. 11, 1911.*)—(Rescinded by ruling 502.)

333. COMPANY MATERIAL. (*Dec. 11, 1911.*)—Material for use in the repair of one of its cars was shipped by a carrier to the shop of a connecting line. Upon inquiry whether the material could move free of charge over both roads it was *Held*, That in cases of this kind company material may move without charge only over the line at whose expense the repair is made. (See ruling 373.)

334. RATES ON GASOLINE MOTOR CARS MOVING UNDER THEIR OWN POWER. (*Jan. 9, 1912.*)—The movement of a gasoline motor car, from the manufacturer to the purchaser, over the rails of a common carrier, is transportation that is subject to the act, when between interstate points, notwithstanding the fact that it moves under its own power and is operated by employees of the manufacturer. Such transportation is lawful only when a rate for it has been duly published. Except on the commodities specifically enumerated in section 1 of the act, rates can not lawfully include the passage of attendants, and as gasoline motor cars are not so enumerated the attendants must pay fares on the basis of the regularly published passenger fare then in effect. In adjusting its rates the carrier should take into consideration the conditions surrounding the movement of traffic of this kind.

335. FREE TRANSPORTATION OF HOUSEHOLD GOODS. (*Jan. 9, 1912.*)—A bureau of the American Railway Association, known as the Bureau for the Safe Transportation of Explosives, ordered one of its inspectors to permanent duty at another station. *Held*, That the carriers in the route between the two points can not lawfully transport his household goods free of charge, even though they are members of that association.

336. Relates to Passenger Traffic.

337. AGENTS FOR CARRIERS MAY NOT ACT AS AGENTS FOR SHIPPERS. (*Jan. 15, 1912.*)—At certain docks the stevedores, who are also the loading contractors for a connecting rail line, unload the vessel and load its cargo into the cars, handling a loading slip to the rail line, upon which the latter issues bills of lading. For the purpose of defeating the through rate, or in such a manner as to have that result, they also act as agents for consignees, and forward to inland rail points goods received by water at the docks and originally intended for such destinations. (See *In re Wharfage Facilities at Pensacola, Fla.*, 27 I. C. C., 258; and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 527.)

Affirming the principle of *Conference Ruling 98*, it is *Held*, That neither a railroad nor its agents or employees may lawfully act as forwarding agents for shippers. (See ruling 365.)

338. JOINT RATE REDUCED TO THE AGGREGATE OF THE INTERMEDIATES, MINIMUM WEIGHT BEING INCREASED. (*Feb. 5, 1912.*)—A joint rate exceeding the aggregate of the intermediate rates was later reduced to equal their sum, the minimum weight, however, being increased. *Held*, That in such cases reparation, when awarded informally by the Commission, will be on the basis of the newly established joint rate and minimum weight, subject of course to the actual weight when higher than the new minimum. (Rescinding ruling 282.)

339. TWO SMALL CARS FURNISHED IN LIEU OF A LARGER CAR ORDERED BY THE SHIPPER. (*Feb. 5, 1912.*)—Upon informal complaints and numerous inquiries it is *Held*, That the act of a carrier in furnishing two small cars in lieu of the larger car ordered by a shipper under appropriate tariff authority is binding, at the rate and minimum applicable to the car ordered, upon all the carriers that are parties to the joint rate under which the shipment moves from the point of origin; the shipper is entitled to all privileges in transit, to reconsignment, and to switching at the same charges as would be applicable under the joint tariff had the shipment been loaded into one car of the capacity ordered; and demurrage will likewise accrue on the basis. If the shipment moves beyond the point to which the joint rates apply, the connecting line or lines are entitled to and should collect their transit, reconsigning, switching, and demurrage charges as provided in their own tariffs.

In all cases the initial carrier will be liable for such additional charges as may be imposed on the shipper by reason of its failure to furnish a car of the capacity ordered. Carriers that are parties to the joint rate under which the shipment commenced to move may share in such additional expense so incurred by the initial carrier.

Rule 66 of Tariff Circular 18-A; *General Chemical Co. v. N. & W. Ry.*, 15 I. C. C., 349; *Conference Ruling 250*; *Milwaukee Falls Chair Co. v. C., M. & St. P. Ry.*, 16 I. C. C., 217; *Conference Ruling 59*; *Noble v. B. & O. R. R.*, 22 I. C. C., 432; and *Conference Ruling 274* reaffirmed, with the understanding, however, that the duty of transferring the shipment rests upon the carriers and not necessarily upon the connecting carrier. (See ruling 357 amending ruling 250.)

340. Relates to Passenger Traffic.

341. SWITCHING ROADS—CONCURRENCES. (*Feb. 5, 1912.*)—Two lines having no direct connection effect an interchange of traffic through a terminal railroad under an arbitrary switching charge of \$3 a car, which they absorb out of the joint rate. Upon inquiry it is *Held*, That it is not necessary that the switching road be shown as concurring in the joint through rate if its tariff of switching charges is on file and the tariff naming the joint through rate provides that such charges will be so absorbed. (See ruling 402.)

342. Relates to Hours-of-Service Law.

343. ICED REFRIGERATOR CAR NOT USED. (*March 4, 1912.*)—A refrigerator car set for loading, fully iced, was not used because of weather conditions, and the shipper refused to pay the ice company's bill: *Held*, That while an action may doubtless lie at common law, it is not clear, in the absence of a tariff provision to cover such cases, that the ice charges are collectible under the act.

344. RATES LAWFULLY CANCELED. (*March 4, 1912.*)—Upon inquiry: *Held*, That a rate once lawfully canceled may not be reinstated as a reissued item.

345. Relates to Passenger Traffic.

346. Relates to Passenger Traffic.

347. ERROR IN STATING CONCURRENCE NUMBER. (*March 11, 1912.*)—Through inadvertence, a tariff showed an erroneous number of a lawful concurrence by a participating carrier: *Held*, That the tariff is not invalidated by a minor error of that character but is a lawful issue, and is binding upon the participating carriers.

348. FABRICATION OF STRUCTURAL STEEL. (*March 11, 1912.*)—In making shipments of structural iron and steel the consignor intended to take advantage of the privilege of fabricating the material in transit, but failed to note on the bill of lading as required by the tariff "To be fabricated at ———." As a result of this omission higher charges accrued: *Held*, That the Commission will not authorize the carrier to refund the additional charges resulting from the shipper's own error. (See *Woodland Lumber Co. v. N. S. R. R. Co.*, 38 I. C. C., 710.)

349. DESTRUCTION OF RECORDS. (*March 11, 1912.*)—The sale of documents, records, and papers of an interstate carrier as waste paper is held to be a lawful destruction of such records within the meaning of the rules and regulations of the Commission touching the destruction of records provided all other requirements under those rules and regulations have been complied with.

350. RATES APPLICABLE TO SHIPMENTS STOPPED SHORT OF INTENDED DESTINATION, AND FARES APPLICABLE TO PASSENGERS DISCONTINUING JOURNEYS. (*April 1, 1912.*)—Under transit tariffs requiring the payment of the full rate to final destination at the time the shipment is delivered at the transit point, it sometimes occurs that a shipment is never forwarded to the destination to which charges have been paid: *Held*, That it is not unlawful or improper in such cases to refund the charges that have been paid in excess of what the lawful charges on the shipment would have been if the transit point had been its final destination. (See *Clinton Sugar Refining Co. v. C. & N. W. Ry. Co.*, 28 I. C. C., 367, and *Pillsbury Flour Mills Co. v. G. N. Ry. Co.*, 39 I. C. C., 357.)

Held further, That, subject to the time limit of ticket, the same rule applies where a passenger has purchased a ticket and has abandoned his journey at a point short of the destination shown on his ticket, and also to a prepaid shipment of freight that is stopped and delivered at a point short of that to which prepaid. (See ruling 115.)

351. TELEGRAMS OF SHIPPERS. (*April 1, 1912.*)—Upon inquiry, under *Conference Ruling 327*, whether carriers may send at their expense over shippers' names telegrams directing the routing of certain traffic: *Held*, That carriers may not pay for such telegrams. (See rulings 302, 327, 363, and 480.)

352. Relates to Passenger Traffic.

353. SHIPMENTS BY WATER. (*April 2, 1912.*)—In the application of the act, a shipment by water from one port to another in the territory of the United States is to be regarded as coastwise business; a shipment by water from a port of the United States to a port of any foreign country, even though adjacent, is export business. (See rulings 359, 369, and 468.)

354. THROUGH SHIPMENTS VIA WATER AND RAIL. (*April 2, 1912.*)—Upon inquiry, and referring to water carriers as defined in section 1 of the act: *Held*, That if a rail carrier and a water carrier separately publish and file their rates applicable to through shipments, traffic over such route may lawfully be transported under through bills of lading, even though the rates are not joint through rates.

Held further, That a water carrier may not lawfully accept shipments for transportation on through bills of lading issued by a rail carrier unless the water carrier has lawfully published and filed rates applicable thereto.

Held further, That the acceptance by a water carrier of through traffic on through bills of lading issued by a rail carrier is an evidence of an arrangement for continuous carriage which subjects the traffic to the provisions and jurisdiction of our act. (See rulings 66, 155, 201, 401, and 422.)

These holdings shall not be construed so as to conflict with Rule 71, Tariff Circular 18-A, which covers export and import traffic. (Last paragraph as amended in conference November 11, 1912.)

Held further (as amended Mar. 6, 1917), That it is not lawful for a carrier subject to this act to issue through bills of lading under an arrangement with a water or other carrier for a continuous carriage until such water or other carrier shall have lawfully filed with this Commission rates applicable to such carriage.

355. Relates to Passenger Traffic.

356. DISCLOSING NAME OF CONSIGNEE. (*May 6, 1912.*)—Upon inquiry: *Held*, That it is unlawful for a carrier to disclose to a shipper the name of the ultimate consignee of a shipment reconsigned in transit by the original consignee. (Sec. 15, act to regulate commerce as amended June 18, 1910. See *In the Matter of Freight Bills*, 29 I. C. C., 498, and 38 I. C. C., 91.)

357. DEMURRAGE, SWITCHING, RECONSIGNMENT AND DIVERSION CHARGES ON A CARLOAD SHIPMENT TRANSFERRED INTO TWO CARS. (*May 6, 1912.*)—In case a shipment leaves a point of origin in a single car and for the convenience of the carriers is transferred in transit into two cars which are subsequently detained at destination beyond the free time, demurrage should be assessed as for one car only, so long as either car is detained; and in such cases switching, reconsignment and

diversion charges should be assessed as for one car only. (Amending ruling 250; see also ruling 273, 274, 331, and 339. Also *Scudder v. T. & P. Ry. Co.*, 21 I. C. C., 60.)

358. DEMURRAGE AT PORTS RESULTING FROM VESSEL DELAY. (*May 6, 1912.*)—Coal consigned to tidewater was held in the cars at the port awaiting the arrival of a vessel which had been delayed by storms: *Held*, That the delay being due to conditions beyond the control of the rail carrier, its demurrage charges might not lawfully be waived. (See rulings 8 and 135.)

359. SHIPMENTS TO COLON, PANAMA. (*May 13, 1912.*)—Colon, although within the geographical limits of the Canal Zone, is governed by and is under the sovereignty of the Republic of Panama. The Commission holds, therefore, that shipments from the United States to that point are entitled to export rates. (See rulings 369 and 468.)

360. ALLOWANCES UNDER SECTION 15. (*May 17, 1912.*)—*Held*, That an allowance purporting to be made under section 15 must be regarded as a concession from the rate unless duly published by the carrier in its tariffs and thus made available to all shippers furnishing a like facility or performing a like service of transportation in connection with their traffic. (See rulings 19, 78, 132, 267, and 292.)

361. FREE TRANSPORTATION TO JOINT EMPLOYEE. (*June 3, 1912.*)—It is desired to move to another station a messenger carried on the pay rolls of an express company who also acts as baggage-man for a rail line, 45 per cent of the salary paid him by the former being refunded to it by the latter: *Held*, That the railroad company may not lawfully transport his household goods free or at rates other than those duly established. (See ruling 208b, also ruling 157.)

362. ASSIGNMENT OF CLAIM. (*June 4, 1912; modified April 14, 1919.*)—In awarding reparation the Commission will recognize an assignment by a consignor to a consignee or by a consignee to a consignor, but will not recognize an assignment to a stranger to the transportation records. The phrase "stranger to the transportation records," as here used, has no reference to the lawful rights of an undisclosed principal, either in matters of reparation before the Commission or the adjustment by the carriers of plain undercharge or overcharge claims. (Amending ruling 246. See *Oden & Elliott v. S. A. L.*, 37 I. C. C., 345, and *Robinson Co. v. Am. Express Co.*, 38 I. C. C., 735.)

363. PAYMENT BY CARRIER OF TOLLS ON TELEGRAMS. (*June 8, 1912.*)—A carrier's tariffs provide that it will pay for telegrams by consignees to shippers when they contain nothing in addition to the necessary specific instructions to route shipments over its rails: *Held*, That such a rule, when lawfully incorporated in the tariffs of a carrier, is not objectionable. (See rulings 302, 327, 351, and 480.)

364. EXCHANGE OF SERVICES BY TELEGRAPH AND RAILROAD COMPANIES. (*June 8, 1912.*)—(See rulings 305 and 491.)

365. CARRIERS ACTING AS FORWARDERS OF SHIPMENTS. (*June 8, 1912.*)—*Conference Rulings* 98 and 337 do not apply when the consignment is to or in care of the carrier itself for the purpose of being forwarded by that carrier from the point of receipt, at the regular rate, over its own line and connections according to routing instructions, and when no lawful through rate is defeated and no discrimination or other violation of the act results. In no case may the same person act as the agent of the carrier and the shipper. (See *In re Wharfage Facilities at Pensacola, Fla.*, 27 I. C. C., 258; and *Doran & Co. v. N., C. & St. L. Ry.*, 33 I. C. C., 527.)

366. DEMURRAGE OR STORAGE CHARGES RESULTING FROM FAILURE TO GIVE NOTICE AT NAMED ADDRESS. (*June 10, 1912.*)—Upon informal complaint it is *Held*, That when the definite address of a consignee is noted upon the bill of lading it is the duty of the initial and of each succeeding carrier to transmit that address to connections participating in the movement, and the duty of the delivering carrier to send notice of arrival to that address; the carrier at fault in this respect will be held liable for demurrage or storage charges accruing as the result of the failure of the notice to reach the consignee. (See ruling 127; also see Code of National Car Demurrage Rules.)

367. LIQUOR SHIPMENTS NOT DELIVERED. (*June 10, 1912.*)—An express company may not refund the prepaid charges on shipments of liquor which it carried to destination but could not deliver under a local law.

368. CARRIER LOCATED WHOLLY WITHIN A STATE. (Oct. 7, 1912.)—Some of the express matter carried by a traction company for an express company between points within a state originates at or is destined to points outside the state. Upon inquiry, *Held*, That the traction line is subject to the act to regulate commerce and must file reports and otherwise comply with its requirements. (See rulings 197 and 418.)

369. COASTWISE TRAFFIC OVER PANAMA RAILROAD. (Oct. 8, 1912.)—Shipments moving between ports of the United States by vessel and the Panama Railroad and to ultimate destination by rail are interstate and must take interstate rates for the rail haul from the port to destination. (See rulings 353, 359, and 468.)

370. MISROUTING INVOLVING LOSS OF TRANSIT PRIVILEGE. (Oct. 8, 1912.)—Besides stating the route and giving instructions to stop the car in transit to finish loading, a shipper also noted a through rate on the bill of lading. This rate did not apply over the indicated route, but was applicable over a route that did not permit the stop specified. *Held*, That the initial carrier, not having advised the shipper of the facts, is liable under *Conference Ruling 286f* for the higher charges that resulted from following the routing instructions. (See 474 amending 286f; also *Jefferson Lumber Co. v. M. & O. R. R. Co.*, 40 I. C. C., 44.)

371. Relates to Passenger Traffic.

372. FREIGHT MOVED FOR AN EXPRESS COMPANY. (Oct. 8, 1912.)—On a shipment consigned to itself under a joint freight rate an express company is not entitled to the benefit of a rail carrier's division to its junction with the line over which the express company operates. (See ruling 209; also *In re Contracts for Free Transportation*, 16 I. C. C., 246.)

373. REPAIR OF CARS ON FOREIGN LINES. (Oct. 8, 1912.)—A carrier on whose line a car was damaged made an order on a connecting line, which owned the car, for certain castings to be delivered to it at the junction of the two lines. *Held*, That the former line was a shipper over the line of the owning carrier and must pay the published rate. (See rulings 225 and 333.)

374. CAR FERRY COMPANY SUBJECT TO THE ACT. (Oct. 8, 1912.)—An incorporated company operates a car ferry connecting the two interstate rail lines by which it is owned. It separately conducts its own affairs and keeps its own accounts, but has not direct dealings with the public. *Held*, That the ferry company is a common carrier subject to the act, and must file tariffs, keep its accounts, and make reports in accordance with the rules and regulations of the Commission.

375. DESTRUCTION OF RECORDS OF LESSOR COMPANY. (Oct. 8, 1912.)—A corporation owning a railroad that it has leased to a carrier for use in interstate traffic is itself subject to the act and must designate an officer to have charge of the destruction of its records.

376. REPARATION CLAIMS ON THE INFORMAL DOCKET. (Oct. 8, 1912.)—(Restated in ruling 425.)

377. Relates to Passenger Traffic.

378. EXPORT BILLS OF LADING. (Oct. 14, 1912.)—The rules and regulations of carriers governing bills of lading on export traffic must be published and filed with the Commission.

379. INTEREST UPON OVERCHARGE CLAIMS. (Oct. 14, 1912.)—(Restated in ruling 489.)

380. Relates to Passenger Traffic.

381. BRIDGE COMPANIES. (Nov. 11, 1912.)—A bridge company which does not own or operate any motive power or cars and rents its bridge to an interstate carrier need not file tariffs with the Commission. (See ruling 399.)

382. Relates to Passenger Traffic.

383. MISROUTING SHIPMENT. (Nov. 11, 1912.)—The address of the consignee having been omitted, a shipment arriving at destination by a line other than that designated in the routing instructions was sent to a storage warehouse. The consignee had made inquiry for it of the delivering carrier noted on the bill of lading. The freight rates were the same by either route. *Held*, That the initial carrier is liable for the storage and drayage charges resulting from misrouting the shipment.

384. Relates to Passenger Traffic.

385. Relates to Passenger Traffic.

386. Relates to Passenger Traffic.

387. UNIFORM BILL OF LADING. (*Nov. 11, 1912.*)—The uniform bill of lading contains the following clause:

The value of the property (being the bona fide invoice price, if any, to the consignee, including the freight charges, if prepaid) at the place and time of shipment under this bill of lading.

At the time a particular shipment, lost in transit, was made, the market price of a commodity had advanced beyond the price fixed in a contract previously entered into, under which a large quantity had been purchased for future delivery. A construction of the clause being requested, it is the view of the Commission that the provision in the bill of lading contained in the parentheses above quoted does not apply to a shipment made several weeks later than the contract of sale.

388. TRANSPORTATION OF EXPLOSIVES. (*Dec. 2, 1912.*)—The regulations of the Commission touching the transportation by freight and express of explosives and other dangerous articles, together with the specifications for the containers thereof, are amended by extending their application to company materials and supplies of that nature. (See ruling 106.)

389. TARIFFS CONTAINING EXPORT OR IMPORT RATES. (*Nov. 11, 1912.*)—(Restated in ruling 468.)

390. Relates to Passenger Traffic.

391. Relates to Passenger Traffic.

392. MISROUTING INVOLVING WRONG TERMINAL DELIVERY. (*Dec. 9, 1912.*)—Rescinded by ruling 509.

393. Relates to Passenger Traffic.

394. JURISDICTION OVER WIRELESS MESSAGES. (*Dec. 10, 1912.*)—The Commission considers that it has jurisdiction over wireless messages from a commercial station in the United States to a ship at sea, whether it be a United States or foreign ship. It does not consider that it has jurisdiction over messages between two American ships at sea. (See ruling 410.)

395. VIOLATIONS OF THE FOURTH SECTION. (*Dec. 16, 1912.*)—Confirming the general principle of an order and announced on January 26, 1911, it is *Held*, That when a carrier in obedience to the requirements of the fourth section of the act has, after August 17, 1910, corrected discriminations against intermediate points, it may not lawfully restore such discriminatory rates unless upon formal application the Commission finds justifying circumstances and authorizes a deviation from the long-and-short-haul rule. (See ruling 406; also *Cement Rates from Mason City, Ia.*, 30 I. C. C., 429.)

396. SPECIAL REPARATION ON INFORMAL COMPLAINT, SUPERSEDING RULING 220c. (*Feb. 10, 1913.*)—Reparation under informal proceedings will be authorized in instances where the tariff rate has been applied, upon the filing of an application by the carrier or carriers which participated in the transportation of the property in question, containing an admission that the rate charged was unreasonable, supported by a statement of the facts substantially showing that the charge demanded for the transportation service performed was excessive, that within a reasonable time a tariff naming the rate upon basis of which adjustment is sought has been published, and that such rate has been made lawfully applicable via the route over which the shipment moved. The Commission's order for refund on account of a reduced rate or changed tariff regulation will require the maintenance of such rate or regulation for at least one year. (Superseding ruling 38; also see rulings 14, 130, and 200a; also *Riverside Mills v. Georgia R. R.*, 20 I. C. C., 424; and *Jefferson Lumber Co. v. M. & O. R. R. Co.*, 40 I. C. C., 44.)

397. REPARATION FOR MISROUTING. (*Jan. 6, 1913.*)—Until the Commission otherwise directs, carriers may adjust claims arising under item (f) of *Conference Ruling 286* without first bringing them to the attention of the Commission; in pursuing this course, however, they must accept full responsibility for the correct application of the rule. (See ruling 474, amending ruling 286f.)

398. FREE TRANSPORTATION OF COLLEGE SUPPLIES. (*Jan. 13, 1913.*)—A college maintained largely by voluntary contributions provides free tuition through scholarships for worthy and needy pupils, but collects tuition from all students who are able to pay it: *Held*, That under section 22 of the act, coal contributed to the institution may not be transported by carriers at other than the published rates. (See ruling 477.)

399. **REPORTS BY BRIDGE COMPANIES.** (*Jan. 13, 1913.*)—A bridge company which has leased its bridge to an interstate rail line must file the annual, monthly, and other reports required of lessor companies under the accounting rules of the Commission. (See ruling 381.)

400. **Relates to Passenger Traffic.**

401. **COASTWISE TRAFFIC MOVING ON A THROUGH BILL OF LADING TO INLAND POINT.** (*Jan. 14, 1913.*)—A through bill of lading was issued on a shipment routed over a rail-and-water route from an inland point in one state to an inland point in another state. Under instructions from the consignee the shipment was delivered by the coastwise line to a forwarding company at the port of arrival, to be delivered by it to a rail line for carriage to the inland destination as a local state movement. The delivering rail line advanced the charges of the initial and coastwise lines and those of the forwarding company and collected them, together with its own charges, at destination. The sum of the local rates thus applied exceed the through published rate from point of origin to destination. *Held*, That the through rate should have been assessed on the shipment. (See rulings 66, 155, 201, 354, and 422.)

402. **CONCURRENCE BY A LESSOR COMPANY IN RATES PUBLISHED BY A LESSEE.** (*Feb. 3, 1913.*)—When the lessor company participates in the service with its engines and crews and is compensated therefor on a percentage division, it should concur in and be shown as a party to the tariffs of the lessee naming passenger fares and freight rates over the lessor's rails. (See ruling 341.)

403. **STORAGE CHARGES ACCRUING DURING RECONSTRUCTION OF A LEASED WAREHOUSE.** (*Feb. 4, 1913.*)—A terminal company may not cancel charges that have accrued, under published rates, on shipments landed and stored on its wharf with its consent pending the repair of a warehouse which it had leased to the shipper and which had been destroyed during a storm.

404. **STORAGE CHARGES ACCRUING BECAUSE OF WEATHER CONDITIONS.** (*March 10, 1913.*)—Because of inclement weather and impassable roads, shippers failed to remove less-than-carload freight within the free time specified in the tariffs and storage charges resulted. Upon inquiry: *Held*, That the same rule may be applied to storage charges as to demurrage charges if so provided in the tariff. (See rulings 242 and 313. See Code of National Car Demurrage Rules.)

405. **DEMURRAGE RULES APPLICABLE TO SHIPMENTS.** (*March 10, 1913.*)—Before certain shipments were removed by the consignee at destinations amended demurrage rules became effective providing charges after certain free time had elapsed: *Held*, That the rules in effect at the time the shipments arrived at the demurrage point must control. (See ruling 473.) (*Rescinded* October 6, 1919. See ruling 473.)

406. **VIOLATION OF THE FOURTH SECTION.** (*April 7, 1913.*)—A violation of the long-and-short-haul clause, having been canceled out of its tariffs, may not lawfully be restored by the carrier without the special authority of the Commission, even though the violation was in existence when section 4 of the act was amended on June 18, 1910. (See ruling 395.)

407. **COMMISSIONS PAID BY TELEGRAPH COMPANIES.** (*April 7, 1913.*)—It is unlawful for a telegraph company to pay to the person, firm, or company in whose building a telegraph office is located any commission on the messages received by or transmitted for that establishment.

408. **NOTICES OF ORAL ARGUMENT.** (*April 8, 1913.*)—(See current Rules of Practice.)

409. **APPLICATION OF AVERAGE AGREEMENT UNDER UNIFORM DEMURRAGE RULES.** (*April 8, 1913.*)—No average agreement made under the uniform demurrage rules may properly combine in one account the cars of more than one consignee; each average agreement must cover the business of one consignee only. Demurrage agreements may not lawfully be made with draymen or with public elevators serving various consignees.

This rule is not intended to prohibit the application of the average agreement at a public elevator or warehouse so far as it applies to cars consigned to the elevator or warehouse company. (See ruling 463; also see Code of National Car Demurrage Rules.)

410. **Relates to Passenger Traffic.**

411. **Relates to Passenger Traffic.**

412. **Relates to Passenger Traffic.**

413. SUPPLIES SOLD TO EMPLOYEES OF CARRIER BY A CONTRACTOR NOT TO BE TRANSPORTED FREE. (*April 8, 1913.*)—An employment agent is under contract with an interstate carrier to furnish it with track laborers and to keep them supplied, even at remote points along its line, with provisions, foodstuffs, clothing, etc., which they purchase of him from time to time with written orders upon the carrier against their pay. The contractor does no business with the general public. *Held*, That the supplies may not lawfully be transported free. (See ruling 208c. Compare ruling 469.)

414. Relates to Passenger Traffic.

415. EXCHANGE OF BILLS OF LADING. (*April 14, 1913.*)—The exchange at an intermediate point of one bill of lading for another, showing a different consignor or consignee or a different destination, is unlawful except in connection with a reconsignment or diversion authorized in the tariff. (See ruling 227.)

416. CONSIGNEE RELIEVED OF DEMURRAGE CHARGES THAT ACCRUED AT POINT OF ORIGIN. (*May 6, 1913.*)—A consignee received a carload shipment, paid the freight charges thereon as agent for the shipper, sold the goods, and remitted the proceeds to the shipper after first deducting the freight charges. About six months afterwards a bill was presented to the consignee for demurrage charges which accrued at the shipping point. The demurrage charges were not shown as advance charges, but a clear bill of lading was issued by the carrier. Upon inquiry: *Held*, That the issuance of a clear bill of lading by the carrier and its failure to bill the demurrage as advance charges relieves the consignee from the obligation to pay the demurrage charges, and the initial carrier must look elsewhere for their payment.

417. Relates to Passenger Traffic.

418. INTERSTATE CARRIER DEFINED. (*May 12, 1913.*)—An electric street railway, with a large passenger traffic and a substantial intrastate freight movement, derives a very small percentage of its revenue from shipments moving between interstate points. It asserts that its entire freight service, both state and interstate, is performed as a matter of accommodation to patrons along its line.

Upon inquiry: *Held*, That if a company engages in interstate commerce at all it thereby becomes subject to the act and is amenable to its provisions with respect to making statistical, annual, and other reports to the Commission and must file tariffs. (See rulings 197 and 368.)

419. REPARATION ON THE BASIS OF STATE RATES. (*May 12, 1913.*)—Upon further consideration, *Conference Ruling 251 is modified as follows*:

The Commission will not recognize as a basis for reparation any rate that is not on file with it, except that in misrouting cases a lower state rate not on file here may be accepted as the basis for reparation when officially verified by local authorities. (See ruling 93; also *Lathrop Lumber Co. v. A. G. S. R. R.*, 27 I. C. C., 250; and *McCaull-Dinsmore Co. v. G. N. Ry.*, 41 I. C. C., 178.)

420. JURISDICTION OVER TELEPHONE COMPANIES IN PORTO RICO. (*June 3, 1913.*)—It is the view of the Commission that it has no jurisdiction over the service and rates of telephone companies the lines of which are wholly within Porto Rico.

421. A CARRIER MAY NOT LEASE ITS ELEVATORS AT A NOMINAL RENTAL. (*June 3, 1913.*)—An interstate carrier desires to lease to a grain dealer at a nominal rental an elevator which has not been in use for some time, and which the carrier is anxious to dispose of because the operation of the elevator would attract business to the road. Upon inquiry: *Held*, That such a transaction would be illegal. (See rulings 94 and 325.)

422. JURISDICTION OVER TRAFFIC MOVING ON THROUGH BILL OF LADING TO HAWAII. (*June 5, 1913.*)—A steamship company filed a proportional tariff with the Commission providing export commodity rates from a port in the United States to a port in the territory of Hawaii. The traffic was covered by through bills of lading from inland points in the United States to the port of transshipment and moved under tariffs filed with the Commission. Upon inquiry: *Held*, That under the Panama Canal act the Commission has jurisdiction over shipments moving under the steamship company's proportional tariff. (See rulings 66, 155, 201, 354, and 401.)

423. COMBINATION RATE MAY NOT BE APPLIED UNTIL JOINT THROUGH RATE IS CANCELED. (*June 5, 1913.*)—A mixed carload shipment moved under a joint mixed carload rate. There was also in effect at the time of the shipment a combination carload rate on the heavier weighted com-

modity in the mixture and a through less-than-carload rate on the lighter weighted commodity, which made a lower charge than that based on the joint mixed carload rate. The joint mixed carload rate had not been canceled. Upon inquiry: *Held*, That a refund to the basis of the lower combination could not lawfully be made.

424. ABSORPTION OF SWITCHING CHARGES OF AN INDUSTRY. (*June 5, 1913.*)—An industry operates its own rails as a plant facility to a connection with the plant rails of another industrial concern, the latter rails, on the other side of the plant, connecting with the rails of an interstate carrier. The trunk line desires to extend its service to the rails of the first industry. The intermediate industry refuses trackage rights to the carrier but will continue itself to switch cars to it, and will accept compensation therefor from the carrier instead of from the other industry, provided this course does not subject it to the act as a common carrier.

It is the view of the Commission that the service performed by the intermediate industry is a service for the shipper and not for the carrier and that the carrier may not lawfully absorb the switching charge of the intermediate industry.

425. REPARATION CLAIMS ON THE INFORMAL DOCKET. (*June 5, 1913.*)—Upon further consideration, *Conference Ruling 376* is amended to read as follows:

In special docket cases no order as to the rate for the future shall be entered where the joint rate in effect at the time of shipment exceeded the aggregate of the intermediate rates and the rates have been subsequently changed in such a manner as that at the time the order of the Commission is entered the through rate does not exceed the sum of the intermediate rates, or in cases where at the time the shipment moved the rate for a short haul was greater than the rate for a longer haul over the same line or route, in the same direction, the shorter being included within the longer distance, and the rates have been subsequently changed in such a manner that at the time the order of the Commission is entered the rate for the shorter distance does not exceed the rate for the longer distance. (Modifying ruling 200a.)

426. Relates to Passenger Traffic.

427. INDUSTRIAL SWITCHING TRACKS. (*June 9, 1913.*)—Restated in ruling 512.

428. PAYMENT BY RAIL CARRIERS OF ADVANCE CHARGES ON IMPORT TRAFFIC. (*June 9, 1913.*)—A rail carrier may not advance charges to an ocean carrier on import traffic except under a proper provision therefor in its tariffs. When such advance charges are made the freight bill of the rail line must show in separate items the charges so advanced and the charges of the inland carrier or carriers; it must also show the tariff rate or rates of the inland carrier or carriers. The name of the ocean carrier to which the charges are advanced must also be shown.

In order that carriers may have time in which to adjust their tariffs in conformity herewith, this ruling will become effective on August 15, 1913. (See rulings 62 and 444; also *Express Rates, Practices, Accounts, and Revenues*, U. R. Op. A-980.)

429. FREE OR REDUCED RATE TRANSPORTATION TO FAMILIES AND HOUSEHOLD GOODS OF POSTAL CLERKS. (*June 16, 1913.*)—The law does not authorize free or reduced rate transportation for the families and household goods of postal clerks whose headquarters were changed for the convenience of a carrier.

430. Relates to Passenger Traffic.

431. Relates to Passenger Traffic.

432. WAIVER OF UNDERCHARGES. (*June 18, 1913.*)—(Canceled by ruling 472.)

433. SHIPPER LIABLE FOR HIS ERROR IN MARKING L. C. L. SHIPMENTS. (*June 23, 1913.*)—Besides being expressly so provided in the rules of all freight classifications, it is on broad general grounds the duty of a shipper correctly to mark packages of less-than-carload freight intended for transportation, and when so marked the carrier is held to a strict responsibility for their safe delivery at destination.

A package of merchandise was addressed by a shipper to Lake City, Fla., instead of Lake City, S. C. *Held*, That the shipper making the error must bear the burden of the resulting freight charges, and the fact that the correct address was noted on the bill of lading is not material. (*Par-*

lin & Orendorff Plow Co. v. United States Express Co., 26 I. C. C., 561, reaffirmed. See rulings 237 and 248; also *American Agricultural Chemical Co. v. B. & O. R. R. Co.*, 28 I. C. C., 401.)

434. Relates to Passenger Traffic.

435. DESTRUCTION OF RECORDS. (*July 24, 1913.*)—It is the view of the Commission that all maps, profiles, plans, specifications, estimates of work, records of engineering studies, field books, and other records pertaining to the physical property of carriers come within the prohibition of destruction contained in section 20 of the act, and as such shall not be destroyed or otherwise disposed of unless their destruction be specifically authorized in the orders of the Commission in the matter of the destruction of records. (See orders of the Commission governing the destruction of records.)

436. Relates to Passenger Traffic.

437. EMBARGOES ON ACCOUNT OF REVOLUTION IN ADJACENT FOREIGN COUNTRIES. (*June 25, 1913.*)—Embargoes against the receipt of freight have been established by Mexican railroads at different times on account of revolutionary troubles in Mexico. Upon inquiry: *Held*, That interstate carriers in the United States under the special circumstances will be permitted to file with the Commission the proper application for authority to establish on short notice tariffs naming the conditions and rates under which they will return or otherwise dispose of property billed to points in Mexico, but which they have been unable to deliver because of the revolutionary conditions in that country. It is understood that the tariffs will arrange that those carriers which participated in the haul within the United States will prorate the expenses of *per diem*, storage, loading, and unloading of the shipments or of their return to the points of origin.

438. Relates to Passenger Traffic.

439. COMPANY MATERIAL HAULED OVER ANOTHER LINE UNDER TRACKAGE RIGHTS. (*July 25, 1913.*)—A carrier having trackage rights permitting it to haul general traffic may haul its own company material over the leased track as over its own rails. In the case passed upon in *Conference Ruling 153* there was no arrangement for handling commercial freight over the leased track.

440. DESTRUCTION OF RECORDS. (*July 25, 1913.*)—An express company has retired from business and asks permission to destroy certain of its records: *Held*, That in the absence of special permission by the Commission the records must not be destroyed except under the rules of the Commission.

441. TARIFFS COVERING ABSORPTION OF DRAYAGE CHARGES. (*July 25, 1913.*)—The absorption of drayage charges being under consideration, the Commission holds:

(a) Where there is an additional transfer or drayage charge in connection with a through shipment, the carriers' tariffs must specify what that charge shall be.

(b) If such drayage or transfer charge is absorbed, in whole or in part, by a carrier, the tariffs must show the amount of such transfer charge that will be absorbed.

(c) A drayage firm is not a proper party to a joint tariff nor is it a carrier under the provisions of our act; therefore, no tariffs can properly be filed by it.

(d) There is no provision in the law which requires, and the Commission has no authority to require, a carrier to confine such drayage to one drayman or one firm of draymen.

(e) The responsibility in case of loss and damage while a shipment is in charge of a truckman to whom it has been committed by the carrier is a question for the carrier to resolve, and is not for our determination.

442. FEEDING AND GRAZING IN TRANSIT. (*July 25, 1913.*)—*Conference Ruling 17* is amended to read as follows:

In connection with the published privilege of feeding and grazing in transit, or where carriers are required to feed live stock in transit, under the provision of an act approved June 29, 1906, commonly called the 28-hour law, carriers may lawfully provide in their tariffs that they will furnish feed at current market prices and bill the cost thereof, together with an addition not exceeding 10 per cent of such cost to cover the value of their services, as advance charges.

443. THROUGH RATE ONLY LAWFUL RATE FOR THROUGH SHIPMENTS. (*Oct. 7, 1913.*)—Upon inquiry as to whether a through distance tariff rate should be applied in cases where a combination rate, made up of a rate to an intermediate point and a distance tariff rate beyond, makes a lower through charge: *Held*, That the through rate is the only lawful rate. (See ruling 220g.)

444. ADVANCES OF CUSTOM-HOUSE BROKERAGE FEES. (*Oct. 7, 1913.*)—Rail carriers may properly advance custom-house brokerage fees and import duties and charges only when proper provision therefor is made in their published tariffs. (See rulings 7, 221 and 300.)

445. Relates to Passenger Traffic.

446. Relates to Passenger Traffic.

447. APPLICATION OF FOURTH SECTION. (*Nov. 4, 1913.*)—The provisions of the fourth section apply where the point of origin is in an adjacent foreign country and the intermediate point and more distant point of destination are in the United States, or where the point of origin and the intermediate point are in the United States and the more distant point of destination is in an adjacent foreign country. (See ruling 318.)

448. Relates to Passenger Traffic.

449. Relates to Passenger Traffic.

450. TARIFFS OF A RAILROAD SYSTEM—THE TRADE NAME. (*Dec. 4, 1913.*)—The tariffs and concurrences of a railroad system must show, in addition to its trade name, the corporate title or titles of the various lines of which the system is composed.

451. DEMURRAGE CHARGES ON DAMAGED SHIPMENTS. (*Jan. 6, 1914.*)—The uncertainty of a consignee as to whether or not he will accept a damaged shipment does not justify the carrier in waiving the demurrage charges accruing on the shipment pending his decision.

452. FREE TRANSPORTATION OF PROPERTY FOR TOWNSHIPS AND COUNTIES. (*Jan. 6, 1914.*)—Upon inquiry: *Held*, That townships and counties are municipalities within the meaning of section 22 of the act to regulate commerce and carriers may lawfully transport their property free or at reduced rates. (See rulings 33, 36, 244 and 297.)

453. CHANGE OF ROUTE BY CONSIGNEE. (*Jan. 6, 1914.*)—Rescinded by ruling 502.

454. Relates to Passenger Traffic.

455. SALE OF PROPERTY TRANSPORTED AS BAGGAGE. (*Feb. 3, 1914.*)—Upon inquiry as to whether or not it is unlawful for a person to sell property transported as baggage and upon which excess baggage charges on the entire weight are paid: *Held*, That if the carrier's tariffs make provision for the transportation of such property at excess baggage rates on the entire weight it would not be in violation of the law to dispose of the property by sale or otherwise. (See ruling 445; also *Jewelers' Protective Union v. P. R. R.*, 36 I. C. C., 73.)

456. WRITTEN NOTICE TO CARRIER CONSTITUTES PRESENTATION OF CLAIM. (*March 2, 1914.*)—Restated in ruling 510.

457. WRITTEN STATEMENTS OF RATES FURNISHED BY CARRIERS. (*March 3, 1914.*)—It is the understanding of the Commission that under section 6 of the act carriers are required to make written statements as to rates only in relation to shipments about to be made or shipments affected by contracts about to be entered into, and that the provisions of that section do not require carriers to expend their time and labor in making such statements upon demands therefor by individuals wishing to issue books or notices of rates, or for other purely speculative purposes.

458. Relates to Passenger Traffic.

459. Relates to Passenger Traffic.

460. TELEGRAMS AND CABLEGRAMS. (*April 13, 1914.*)—The practice by telegraph and cable companies of returning to patrons the original telegrams or cablegrams in support of their bills is unlawful. Such documents must be retained in conformity with the regulations of the Commission governing the destruction of records of telephone, telegraph, and cable companies.

461. WATER CARRIERS CONTROLLED BY OTHER COMMON CARRIERS. (*April 14, 1914.*)—Section 5 of the act as amended by the Panama Canal act prohibits common carriers subject to the act to have, after July 1, 1914, any interest, directly or indirectly, in any common carrier by water, or any vessel carrying freight or passengers, with which said carrier does or may compete for traffic.

The manifest purpose of this law is to bring about discontinuance of common ownership or control of water carriers except in those instances in which, after investigation and hearing, it is found that such operation is in the interest of the public or of advantage to the convenience and commerce of the people, and neither excludes, prevents, nor reduces competition on the route by water. The act does not in specific words authorize the continuance of such common ownership or control beyond July 1, 1914, pending the decision of the Commission on application relative thereto; but it is provided that any application filed before July 1, 1914, may be considered and granted thereafter. It is not conceivable that the Congress intended that the service should be withdrawn from the public on July 1, 1914, if for good and sufficient reasons it had been impossible for the Commission to determine the questions presented in the application before that date. Although the language employed is different, it seems that the legislative intent was similar to that expressed in the amended fourth section of the act and in the safety appliance acts.

The Commission therefore interprets the amendment to section 5 of the act as contemplating and authorizing a continuance of any existing common ownership or control after July 1, 1914.

462. CARRIER MUST INVESTIGATE BEFORE PAYING CLAIMS. (*April 25, 1914.*)—Upon further consideration, *Conference Ruling 15* is modified as follows:

A carrier can not shield itself from responsibility in paying a claim by accepting the authority of a connecting line to pay it, but must ascertain the lawfulness of the claim and allow it or not upon the basis of its own investigation. This is not to be understood, however, as requiring each carrier interested in the claim to make an independent investigation. The principle of direct investigation embodied in the rules of the freight claim association, whereby the carrier against which a claim is presented undertakes to make the investigation for itself and for the other carriers concerned in the joint movement out of which the claim arises, is approved by the Commission as a means of expediting the adjustment of claims. In all cases, however, the investigation so made must be thorough and must disclose a lawful basis for payment before the claim is adjusted. (See ruling 236; also *Charleston & W. C. Ry. Co. v. Varnville Co.*, 237 U. S., 597.)

463. APPLICATION OF THE AVERAGE AGREEMENT UNDER UNIFORM DEMURRAGE RULES. (*May 19, 1914.*)—A storage warehouse company which is specifically designated as the consignee of carloads of miscellaneous freight, the property of others, and which company is responsible for unloading and for the detention of cars so received, may be made the subject of the average demurrage rule. Cars arriving otherwise consigned and afterwards ordered to the warehouse for storage may not be included under the average agreement with the warehouse company. (See ruling 409.)

464. INTEREST UPON OVERCHARGE CLAIMS. (*May 28, 1914.*)—Restated in ruling 489.

465. Relates to Passenger Traffic.

466. Relates to Passenger Traffic.

467. Relates to Passenger Traffic.

468. EXPORT AND IMPORT RATES—CONFERENCE RULING 389 RESTATED. (*Dec. 23, 1914.*)—In order to avoid controversies and questions: *Held*, That tariffs hereafter issued containing rates applicable to export or import traffic shall specify, by inclusion or exclusion, the countries to or from which such rates are applicable, whether such countries are or are not adjacent to the United States.

In the interest of clearness, the tariffs should also specify whether or not shipments to or from Cuba, the Philippine Islands, Porto Rico, the Hawaiian Islands, or the Canal Zone are included. (See rulings 353, 359 and 369.)

469. FREE TRANSPORTATION OF SUPPLIES FOR LABORERS. (*Dec. 23, 1914.*)—Upon inquiry as to whether or not a carrier may transport without charge food or other supplies for the use of laborers employed on its line: *Held*, That such shipments may not be carried free except when shipped by an agent of the carrier acting for it and for whose actions the carrier assumes and accepts responsibility. (Compare ruling 413.)

470. SPECIAL RATES ON SHIPMENTS IN FOREIGN CARS. (*Dec. 24, 1914.*)—A carrier may not by tariff limit the application of certain proportional rates to shipments in cars of other carriers.

471. CHANGES IN RECONSIGNMENT CHARGES. (*Jan. 19, 1915.*)—At the time a shipment commenced to move from the point of origin the tariff provided four days' free time for reconsignment, but before the shipment reached the reconsigning point the time had been lawfully reduced to one day: *Held*, That the tariff in effect when the shipment was made applied.

472. WAIVER OF UNDERCHARGES. (*May 3, 1915.*)—On and after August 1, 1915, the Commission will not consider on the informal docket any application for authority to waive collection of undercharges in connection with shipments delivered subsequent to July 31, 1915. *Conference Rulings 258 and 432* are hereby rescinded as of August 1, 1915.

473. DEMURRAGE AND STORAGE RULES. (*October 6, 1919.*)—Upon inquiry and to remove the confusion that exists among carriers and shippers: *Held*, That off-track storage not in transit, track storage, and demurrage are controlled by the tariffs in effect contemporaneously with the accrual of these services, and therefore are subject to such changes as lawfully may be made in the applicable tariffs during the period of accrual; that off-track storage in transit is controlled by the tariffs in effect upon the date of shipment. (Rescinding *Conference Rulings 405 and 473* of May 25, 1915.)

474. ADJUSTMENT OF CLAIMS FOR DAMAGES RESULTING FROM MISROUTING. (*May 25, 1915.*)—*Conference Rulings 286d and 286f* are amended to read as follows:

(a) It is the duty of a carrier to make delivery in accordance with routing directions. Where such routing instructions have not been followed and delivery is tendered at another terminal than that designated, it remains the duty of the delivering carrier to make delivery at the terminal designated in routing instructions, either by a switch movement or by carting. In either event the additional expense involved in making such delivery must be borne entirely by the carrier responsible for the misrouting, and the reimbursement thereof to the delivering carrier may be made by the carrier at fault without a specific order of the Commission. (See ruling 214*d*.)

(b) Restated in ruling 509.

(c) The obligation lawfully rests upon the carrier's agent to refrain from executing a bill of lading which contains provisions that can not lawfully be complied with, or provisions which are contradictory and therefore impossible of execution. When, therefore, the rate and the route are both given by the shipper in the shipping instructions and the rate given does not apply via the route designated it is the duty of the carrier's agent to ascertain from the shipper whether the rate or the route given in the shipping instructions shall be followed. The carrier will be held responsible for any damages which may result from the failure of its agent to follow this course.

If, however, the agent of the carrier, after exercising reasonable diligence, is unable to obtain more definite instructions as to routing, the goods should be sent via the route specified in the bill of lading. (Cancels rulings 159, 186, 192, 214*i* and 231; see rulings 243, 370, and 397. See *Gibson Fruit Co. v. C. & N. W. Ry. Co.*, 21 I. C. C., 645; *Ludowici-Celadon Co. v. M. P. Ry. Co.*, 22 I. C. C., 589; *American Agricultural Chemical Co. v. B. & A. R. R. Co.*, 28 I. C. C., 400 *Goldfield Cases*, 34 I. C. C., 378; *Texarkana Pipe Works v. B., S. L. & Wn. Ry.*, 38 I. C. C., 341; *Chapin & Co. v. C., I. & L. Ry. Co.*, 38 I. C. C., 613; *Jefferson Lumber Co. v. M. & O. R. R. Co.*, 40 I. C. C. 44; *Laclede-Christy Clay Products Co. v. M. P. Ry. Co.*, U. R. Op. A-780; and *B. McCracken & Son v. B. & O. R. R. Co.*, U. R. Op. 2199.)

475. Relates to Passenger Traffic.

476. Relates to Passenger Traffic.

477. FREE TRANSPORTATION OF CAR WITH EXHIBITS FOR STATE AGRICULTURAL COLLEGE. (*June 14, 1915.*)—A state college uses a car containing live stock and agricultural products in giving free educational lectures and demonstrations to farmers in different parts of the state. Upon inquiry: *Held*, That if the college is sustained by the state and if the arrangements are made with the proper and responsible officers of the state, such car and contents and the necessary agents employed in connection therewith may lawfully be moved by carrier without charge or at reduced rates. (See ruling 398.)

478. Relates to Passenger Traffic.

479. Relates to Passenger Traffic.

480. TELEPHONE MESSAGES RELATING TO SHIPMENTS. (*July 22, 1915.*)—Upon inquiry: *Held*, That *Conference Rulings 302, 327, 351, and 363*, regarding the exchange of messages between carriers and shippers, relate to telephone messages as well as to telegrams.

481. Relates to Passenger Traffic.

482. ROUTING OF SHIPMENTS BY CONSIGNEES. (*July 26, 1915.*)—Rescinded by ruling 502.

483. COMMODITY RATE BASED UPON A MAXIMUM CARLOAD WEIGHT. (*Oct. 4, 1915.*)—Under a tariff naming a commodity rate per car, not exceeding a specified maximum weight, and also a class rate with a minimum carload weight: *Held*, That charges should be assessed upon the basis of the commodity rate, any excess weight to be charged proportionately; but the carrier may refuse to receive in one car a shipment weighing more than the maximum load prescribed for that car. (See ruling 84, and also Rule 7 of Tariff Circular 18-A.)

484. Relates to Passenger Traffic.

485. Relates to Passenger Traffic.

486. DIVISIONS OF JOINT RATES ON RAILWAY FUEL MUST BE FILED WITH THE COMMISSION. (*Dec. 22, 1915.*)—For the purpose of giving the matter wider publicity, this means is adopted of directing attention to the Commission's report and order in *Filing of Divisions of Joint Rates Applicable to Railway Fuel*, 37 I. C. C., 265, and to its supplemental report and order in the same proceeding, 38 I. C. C., 169. By these orders *Conference Ruling 209* was modified and carriers were required to file with the Commission sheets or statements showing the divisions of all joint rates on railway fuel; and to file all changes and amendments to such sheets or statements; and to file all new sheets or statements which in any wise affect or determine the division of joint rates on railway fuel. (See ruling 324.)

487. Relates to Passenger Traffic.

488. RATES BETWEEN POINTS IN THE UNITED STATES AND ADJACENT FOREIGN COUNTRIES. (*Jan. 10, 1916.*)—In the absence of a published through rate between a point in the United States and a point in an adjacent foreign country, the published through rate between the border gateway and the domestic point should be applied in constructing the total rate. In the absence of a published through rate between the border gateway and the domestic point, the lowest combination of legal rates should be applied. (See ruling 220g.)

489. INTEREST UPON OVERCHARGE CLAIMS. (*Feb. 18, 1916.*)—*Conference Ruling 464* amended and restated.

Interest on an overcharge (by which is meant the amount collected on a shipment in excess of the legally published rate) accrues from the date of its collection by the carrier, whether arising from an error in rate, weight, or classification.

The Commission does not regard it as unlawful for a claimant to accept in satisfaction of his claim the ascertained amount of an overcharge without interest; and the Commission is of the opinion that when such a refund is made by the carrier within 30 days after the improper collection of the overcharge, it may be regarded, in accordance with a well-established usage, as a cash transaction, upon which interest does not accrue.

The views expressed in this ruling shall be understood as applying to all pending and unsettled overcharge claims and to those arising in the future, but not as authorizing or requiring the reopening of any claim which has been settled and closed by the acceptance by a claimant of the amount of an overcharge without interest. (See *Scattergood & Co. v. L. S. & M. S. Ry. Co.*, U. R. Op. 2040; and *International Lumber Co. v. C. N. Ry. Co.*, 40 I. C. C., 283.)

490. TRACKAGE RIGHTS OVER AN INDUSTRIAL ROAD. (*March 13, 1916.*)—Upon inquiry by a common carrier respecting proposed trackage rights over a portion of a logging road: *Held*, That if the common carrier uses the logging road in interstate commerce or as a highway for interstate commerce the logging road must keep its accounts as required by section 20 of the act; it will also be subject to the provisions of the safety-appliance acts.

491. EXCHANGE OF SERVICES UNDER CONTRACTS BETWEEN RAILROADS AND TELEGRAPH, TELEPHONE, OR CABLE COMPANIES. (*March 23, 1916.*)—Upon inquiry whether under section 1

of the act a railroad may contract with a telegraph company to transport the latter's property, either for use on the railroad's line or elsewhere, at a rate different than the regularly published rate for such transportation: *Held*, That such an exchange of services may lawfully be made only upon the basis of the legally established rates of the railroad and on the basis of the fixed charges of the telegraph company regularly exacted of other customers for similar services; except that such carriers may so contract, without reference to said lawful rates and charges, for the transportation of the property of the telegraph company over the line of the contracting railroad company for use along the latter's line and in the construction, improvement, or operation thereof; that is to say, when such transportation is not conducted by said railroad as a common carrier. (Amends and modifies ruling 219 and cancels ruling 364; see also ruling 305.) *Rescinded* March 3, 1919.

492. Relates to Passenger Traffic.

493. Relates to Passenger Traffic.

494. Relates to Passenger Traffic.

495. Relates to Passenger Traffic.

496. RATES BASED ON VALUE OF PROPERTY AS DECLARED AT THE TIME AND PLACE OF SHIPMENT. (July 3, 1916.)—A tariff provided that—

carriers, parties hereto, have no means of determining value of live stock when offered for shipment, and live stock will not be accepted for transportation unless the shipper or his agent declares in writing the valuation at time and place of shipment. The rates named in tariff shall be applied on animals the actual value of which does not exceed the following amount.

Live stock valued at \$5 per head at the shipping point was sold at destination at an average price exceeding that amount. Upon inquiry whether the charges should be assessed at the rate applicable to live stock of the value at which it was sold at destination: *Held*, That under such a tariff provision the value declared by the shipper at the time and place of shipment is the basis for determining the rate applicable and that a reasonable difference between that value and the value at destination is not evidence of a misstatement of value at the point of origin. (See rulings 58 and 295; also *In re The Cummins Amendment*, 33 I. C. C., 682, 693.)

497. APPLICATION OF AVERAGE AGREEMENT UNDER CODE OF UNIFORM DEMURRAGE RULES. (Oct. 3, 1916.)—A consignee at St. Louis, under proper tariff authority, reconsigned a shipment to a storage warehouse on the tracks of a terminal carrier at that point. Upon inquiry, *Held*, That as the terminal carrier had an independent average demurrage agreement with the storage warehouse, it must treat the storage warehouse as the consignee within the meaning of *Conference Ruling* 463. (See also ruling 409.)

498. APPLICATION OF AVERAGE AGREEMENT UNDER CODE OF UNIFORM DEMURRAGE RULES. (Oct. 16, 1916.)—Before cars loaded by an industry were switched from its warehouse their contents were sold to another shipper to whom bills of lading were issued by the carrier: *Held*, That the average agreement between the carrier and the industry may lawfully be applied. (See rulings 409 and 463.)

499. CANCELED TARIFFS NEED NOT BE KEPT POSTED. (Nov. 8, 1916.)—Under section 6 of the act to regulate commerce, carriers are required to keep posted for public inspection only their current tariffs and tariffs filed to become effective in the future.

500. RELEASED RATES UNDER CUMMINS AMENDMENT AS FURTHER AMENDED. (Nov. 8, 1916.)—Under the so-called Cummins amendment as further amended, carriers when authorized or required by the Commission may establish rates on property, other than ordinary live stock, based upon its agreed or declared value even though the value so declared or agreed to may be less than the true value of the property transported.

501. ISSUING CARRIER'S RESPONSIBILITY UNDER JOINT RATE PUBLISHED WITHOUT PROPER CONCURRENCE. (Nov. 28, 1916.)—An originating carrier having published a joint through rate without the concurrence of a connecting line, the higher combination of intermediate rates was applied. Following *du Pont de Nemours Powder Company v. Wabash Railroad*, 33 I. C. C., 507; *Held*, That the through rate should have been applied, the originating carrier assuming the dif-

ference between that rate and the higher combination rate without assistance from the other carriers participating in the movement. (See rule 68 of Tariff Circular 18-A.)

502. ROUTING OF SHIPMENTS BY CONSIGNEES. (*Jan. 8, 1917.*)—In view of the provisions of an act of Congress entitled "An act relating to bills of lading in interstate and foreign commerce," approved August 29, 1916, *Conference Rulings 332, 453 and 482* are rescinded.

503. HANDLING OF CIRCUS AGENTS AND ADVANCE CARS. (*March 25, 1918.*)—In the light of changed practices, conference ruling 503 is rescinded pending the issuance of a further ruling if that be found necessary. The present practices may be continued pending such further ruling.

504. RELEASED AND DECLARED VALUE RATES. (*March 12, 1917.*)—Upon the petition of a shipper to require a carrier to establish rates depending upon the declared or agreed value of the property transported, a hearing will be had and an order thereon will issue. Upon a petition by a carrier for authority to establish such a rate, the Commission will investigate its reasonableness and propriety in such manner and by such means as it may deem proper; any rate so authorized must be published and posted as required by law and will be subject to suspension on protest and to attack on complaint as in the case of other rates.

505. TRAFFIC PASSING THROUGH THE UNITED STATES FROM A POINT IN AN ADJACENT FOREIGN COUNTRY TO A POINT IN AN ADJACENT FOREIGN COUNTRY. (*April 2, 1917.*)—With respect to a shipment moving from a point in Canada through the United States to Boston consigned for export to a point in Nova Scotia: *Held*, That, following the ruling announced in *Seymour v. M. L. & T. R. R. & S. S. Co.*, 35 I. C. C., 492, and *Canales v. G., H. & S. A. Ry. Co.*, 37 I. C. C., 573, the Commission is without jurisdiction.

506. DEMURRAGE UNDER AVERAGE AGREEMENT ON STATE AND INTERSTATE SHIPMENTS. (*April 17, 1917.*)—Where the demurrage rules and rates on state and interstate traffic differ: *Held*, That credits on state traffic under an average agreement may not lawfully be offset against the debits on interstate traffic.

507. SHIPMENTS HELD AT TRANSIT POINT BEYOND TRANSIT PERIOD BECAUSE OF INABILITY OF CARRIER TO SUPPLY CARS. (*April 23, 1917.*)—Certain shipments were placed in transit under a tariff rule providing, in substance, that the billing would not be recognized for warehousing and reshipping purposes with respect to shipments on hand at the close of August 31 of any year. Upon inquiry whether the carrier, being unable to comply with a demand for cars made only a day or two before the clearing day, the shipper is entitled to a refund of the difference between the through rate and the sum of the local rates to and from the transit point: *Held*, It not being shown that the carrier failed in its duty to supply cars upon reasonable request, the refund may not be made. (See *Peck v. A., T. & S. F. Ry.*, U. R. Op. A-923.)

508. FILING OF INFORMAL COMPLAINTS—STATUTE OF LIMITATIONS. (*May 12, 1917—Modified June 27, 1918, July 2, 1918 and December 4, 1918.*)—Section 16 of the act to regulate commerce, as amended, provides that: "All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after." In *U. S. ex rel. Louisville Cement Co. v. Interstate Commerce Commission*, 246 U. S., 638, the Supreme Court of the United States held that the cause of action accrues when the unlawful charges are paid.

In all cases the complaint must be filed by or on behalf of the party who has borne the transportation charges as such. (*International Agricultural Corporation v. Louisville & Nashville Railroad Co.*, 29 I. C. C., 391; and *Oden & Elliott v. Seaboard Air Line Railway*, 37 I. C. C., 345.)

In order that it may operate to stay the statute of limitations, an informal complaint must be filed with the Commission within two years from the time the cause of action accrues, and (a) must name the defendant carrier or carriers; (b) must allege a violation of the act and ask affirmative relief; and (c) must describe the shipment by naming the point of origin and destination, the consignor and consignee, the date of the shipment, the initials and number of the car, in the case of carload shipments, or (d) must give such available information as may be reasonably necessary to enable the defendant carrier or carriers to identify the shipment. A notification to the Commission of the possibility or intention of filing a complaint for the recovery of damages is not such a filing as is contemplated by the statute.

An informal complaint embodying the information above indicated should be filed with sufficient copies to enable the Commission to send one copy to each defendant carrier as notice to it of the complaint, retaining one copy for its own use.

When a complaint for reparation has been before the Commission informally on the special docket or otherwise, and the parties have been notified by the Commission that the complaint is denied or that it cannot be determined informally, or when the parties voluntarily withdraw the complaint from informal consideration, it may not be reconsidered informally if not again submitted to the Commission within six months from the date of such notification or withdrawal, nor may it be filed as a formal complaint unless so filed within six months from the date of such notification or withdrawal: *Provided, however*, That this rule does not apply when the two-year period from the time the cause of action accrues has not expired. (See rule III of the Rules of Practice.)

RIGHT OF ACTION TO RECOVER REPARATION ON ACCOUNT OF UNLAWFUL CHARGES ACCRUES WHEN THEY ARE PAID.—The Supreme Court of the United States in *U. S. ex. rel. v. Interstate Commerce Commission* decided on April 29, 1918, held that the right to recover reparation on account of unlawful freight charges accrues when they are paid, and not upon the delivery of the shipment, as held by the Commission in *Blinn Lumber Co. v. S. P. Co.*, 18 I. C. C., 430.

The Commission will therefore entertain petitions for the reconsideration of any such formal or informal claims that were filed within two years from the time the charges were paid and were denied by the Commission under the ruling of the *Blinn* case. Such petitions should be filed not later than December 31, 1918. (Modifying Conference Ruling 508.)

CAUSE OF ACTION DOES NOT ACCRUE UNTIL FINAL PAYMENT OF LEGAL CHARGES IS MADE.—In the light of the ruling of the Supreme Court of the United States in *Louisville Cement Co. v. Interstate Commerce Commission*, 246 U. S., 638, decided April 29, 1918: *Held*, That the cause of action to recover reparation does not accrue until the final payment of all or any part of the legal charges has been made to the carrier.

(See Section III of Rules of Practice before the Commission, pages 243–246.)

509. DRAYAGE EXPENSE RESULTING FROM ERRONEOUS TERMINAL DELIVERY. (*June 19, 1917.*)—*Conference Ruling 474b* amended and 392 rescinded.—In case the consignee elects to accept the shipment at the terminal where delivery has been erroneously offered rather than insist upon delivery at the terminal designated, the shipper or the consignee is entitled to recover damages in the sum of the difference between the expense of drayage actually incurred at a reasonable charge therefor and the expense which would have been incurred if proper delivery had been effected by the carrier. The carrier responsible for misrouting the shipment, resulting in a claim of this character, may reimburse the shipper or consignee entitled to reimbursement wholly at its expense without a specific order of the Commission in each case. In pursuing this course carriers must accept full responsibility for the correct application of the rule and must make reports to the Commission in accordance with its order of July 3, 1917.

510. WRITTEN NOTICE TO CARRIER CONSTITUTES PRESENTATION OF CLAIM. (*June 21, 1917.*)—Modifying *Conference Ruling 456*. It is the view of the Commission that the provision in the uniform bill of lading requiring that claims for loss, damage, or delay must be made in writing within a specified period is legally complied with when the shipper, consignee, or the lawful holder of the bill of lading, within the period specified, files with the agent of the carrier, either at the point of origin or the point of delivery of the shipment, or with the general claims department of the carrier, a claim or a written notice of intended claim describing the shipment with reasonable definiteness. (See *G. F. & A. Ry. v. Blish Milling Co.*, 241 U. S., 190.)

511. Relates to Passenger Traffic.

512. INDUSTRIAL SWITCHING TRACKS. (*July 20, 1917.*)—*Conference Ruling 427* modified and amended.—A carrier may not lawfully build a switch track inside the plant boundary of an industrial company without adequate compensation therefor. And an agreement by the industry to give the carrier all or a part of its traffic as compensation for the building of the track is not regarded as "adequate compensation." (See ruling 110.)

513. EXPRESS COMPANIES MAY NOT CARRY PROPERTY FOR OFFICERS AND EMPLOYEES EXCEPT AT PUBLISHED RATE. (*July 20, 1917.*)—Upon inquiry: *Held*, That the act to regulate commerce as amended does not authorize an express company subject to the act to carry property either for its own officers or employees or for the officers and employees of other common carriers, except at its legally published rate. (See rulings 157, 208*b*, and 361.)

TRANSPORTATION OF EXPLOSIVES ACT

AN ACT To promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation.

By an Act entitled "An Act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909, to take effect and be in force on and after the first day of January, 1910, the Act entitled "An Act to promote the safe transportation in interstate commerce of explosives and other dangerous articles, and to provide penalties for its violation," approved May 30, 1908, is repealed, and the following sections of said Act to codify, revise and amend the penal laws of the United States are substituted therefor:

Dynamite, etc., not to be carried on passenger vehicles for hire.
35 Stat. L., 1134.

SECTION 232. It shall be unlawful to transport, carry, or convey, any dynamite, gunpowder, or other explosives, between a place in a foreign country and a place within or subject to the jurisdiction of the United States, or between a place in any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, and a place in any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, on any vessel or vehicle of any description operated by a common carrier, which vessel or vehicle is carrying passengers for hire: *Provided*, That it shall be lawful to transport on any such vessel or vehicle small arms ammunition in any quantity, and such fuses, torpedoes, rockets, or other signal devices, as may be essential to promote safety in operation, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each, and not exceeding twenty samples at one time in a single vessel or vehicle; but such samples shall not be carried in that part of the vessel which is intended for the transportation of passengers for hire: *Provided further*, That nothing in this section shall be construed to prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels or vehicles.

Interstate Commerce Commission to make regulations for transportation of explosives.

SEC. 233. The Interstate Commerce Commission shall formulate regulations for the safe transportation of explosives, which shall be binding upon all common carriers engaged in interstate or foreign commerce which transport explosives by land. Said Commission, of its own motion, or upon application made by any interested party, may make changes or modifications in such regulations, made desirable by new information or altered conditions. Such regulations shall be in accord with the best known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit, and the precautions necessary to determine whether the material when offered is in proper condition to transport. Such regulations, as well as all changes or modifications thereof, shall take effect ninety days after their formulation and publication by said Commission and shall be in effect until reversed, set aside, or modified.

Liquid nitro-glycerin, etc., not to be carried on certain vehicles.

SEC. 234. It shall be unlawful to transport, carry, or convey, liquid nitro-glycerin, fulminate in bulk in dry condition, or other like explosive, between a place in a foreign country and a place within or subject to the jurisdiction of the United States, or between a place in one State, Territory, or District of the United States, or a place noncontiguous to but subject to the jurisdiction thereof, and a place in any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, on any vessel or vehicle of

Note.—The practical application of the above act is covered by B. E. Pamphlets 6A and 9, issued by Bureau of Explosives, 30 Vesey Street, New York.

any description operated by a common carrier in the transportation of passengers or articles of commerce by land or water.

SEC. 235. Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside thereof the contents thereof; and it shall be unlawful for any person to deliver, or cause to be delivered, to any common carrier engaged in interstate or foreign commerce by land or water, for interstate or foreign transportation, or to carry upon any vessel or vehicle engaged in interstate or foreign transportation, any explosive, or other dangerous article, under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at or before the time such delivery or carriage is made. Whoever shall knowingly violate, or cause to be violated, any provision of this section, or of the three sections last preceding, or any regulation made by the Interstate Commerce Commission in pursuance thereof, shall be fined not more than two thousand dollars, or imprisoned not more than eighteen months, or both.

Marking of packages of explosives; deceptive marking.

SEC. 236. When the death or bodily injury of any person is caused by the explosion of any article named in the four sections last preceding, while the same is being placed upon any vessel or vehicle to be transported in violation thereof, or while the same is being so transported, or while the same is being removed from such vessel or vehicle, the person knowingly placing, or aiding or permitting the placing, of such articles upon any such vessel or vehicle, to be so transported, shall be imprisoned not more than ten years.

Death or bodily injury caused by such transportation.

COMPULSORY TESTIMONY ACT

AN ACT In relation to testimony before the Interstate Commerce Commission, and in cases or proceedings under or connected with an Act entitled "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and amendments thereto.

No person to be excused from testifying by fear of incrimination.

27 Stat. L., 443.

Immunity.

Perjury may be punished.

Penalty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and documents before the Interstate Commerce Commission, or in obedience to the subpoena of the Commission, whether such subpoena be signed or issued by one or more Commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the Act of Congress, entitled "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or of any amendment thereof, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing, concerning which he may testify, or produce evidence, documentary or otherwise, before said Commission, or in obedience to its subpoena, or the subpoena of either of them, or in any such case or proceeding, *Provided,* That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the Commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

IMMUNITY OF WITNESSES ACT

AN ACT Defining the right of immunity of witnesses under the Act entitled "An Act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February eleventh, eighteen hundred and ninety-three, and an Act entitled "An Act to establish the Department of Commerce and Labor," approved February fourteenth, nineteen hundred and three, and an Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and an Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved February twenty-fifth, nineteen hundred and three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under the immunity provisions in the Act entitled "An Act in relation to testimony before the Interstate Commerce Commission," and so forth, approved February eleventh eighteen hundred and ninety-three, in section six of the Act entitled "An Act to establish the Department of Commerce and Labor," approved February fourteenth, nineteen hundred and three, and in the Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and in the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved February twenty-fifth, nineteen hundred and three, immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath.

34 Stat. L., 798.

Immunity limited to natural persons who give testimony under subpoena and under oath.

INTERSTATE COMMERCE COMMISSION

Rules of Practice

BEFORE THE

Commission

IN PROCEEDINGS UNDER THE ACT TO
REGULATE COMMERCE, AS AMENDED,
OTHERWISE KNOWN AS THE
INTERSTATE COMMERCE ACT

WITH APPROVED FORMS

REVISED, AMENDED, AND ADOPTED

MARCH 2, 1920

RULES OF PRACTICE BEFORE THE COMMISSION

I

Public Sessions and Hearings

Public sessions of the Commission or Divisions thereof for hearing evidence or oral arguments or for public conferences, and hearings before examiners, will be held as set upon notice by the Commission, subject to change upon such notice as may be practicable.

II

Parties

(a) The parties to proceedings before the Commission are complainants, defendants, interveners, protestants, respondents, applicants, and petitioners, according to the nature of the proceeding and their relation thereto. Any party may appear and be heard in person or by attorney.

(b) In complaint cases the parties who complain to the Commission of anything done or omitted to be done in violation of the provisions of the act to regulate commerce, as amended, otherwise known as the interstate commerce act, and in these rules referred to as the act, by any common carrier subject to the act are those designated in section 13 thereof, and are styled complainants. The common carriers so complained of, and their receivers or operating trustees, if any, are styled defendants. Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and involve substantially the same violation of the act and a like state of facts.

(c) If complaint is made in respect of through transportation by continuous carriage or shipment, all carriers subject to the act participating therein should be made defendants.

(d) If complaint is made of rates, fares, charges, regulations, or practices of more than one carrier, all carriers against which an order is sought should be made defendants.

(e) If complaint is made of a classification or any provision thereof, it will ordinarily suffice to make defendants the carriers operating one or more through routes between representative points of origin and destination.

(f) The receiver or trustee operating the line of a defendant must also be made defendant.

(g) In investigation proceedings the carriers designated therein are styled respondents.

(h) In investigation and suspension proceedings those upon whose protests the proceeding was instituted are styled protestants, and the carriers whose tariffs are under suspension are styled respondents.

(i) In applications for relief from or under any provisions of the act the carriers by whom or on whose behalf the application is made are styled applicants.

(j) Others seeking relief are styled petitioners.

(k) Petitioners permitted to intervene as hereinafter provided are styled interveners.

(l) Anyone entitled under the act to complain to the Commission may petition for leave to intervene in any pending proceeding prior to or at the time it is called for hearing, but not after except for good cause shown. The petition shall set forth the grounds of the proposed intervention; the position and interest of the petitioner in the proceeding; and, if affirmative relief is sought, should conform to the requirements for a formal complaint. Leave will not be granted except on allegations reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave is granted the petitioner thereby becomes an intervener and a party to the proceeding. When the petition is filed prior to the hearing the petitioner must furnish therewith a sufficient number of copies for service upon all parties to the proceeding and three additional copies for the use of the Commission. When not filed prior to but tendered at the hearing sufficient copies must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing sufficient copies must also be furnished for service and three additional copies for the use of the Commission. It is desirable, especially where affirmative relief is sought, that the petition be filed in season to permit of service on the defendants and to afford them an opportunity to answer before the hearing, thereby making it possible

in some instances to grant leave where otherwise it would be denied in fairness to the parties to the proceeding.

III Complaints

(a) Complaints may be either informal or formal.

(b) Informal complaints may be made by letter or other writing and as received are filed. Matters thus presented are, if their nature warrants it, taken up by correspondence with the carriers affected in an endeavor to bring about satisfaction of the complaint without formal hearing, and are given serial numbers on the informal docket. This informal procedure has been found efficacious in the great majority of cases and is recommended.

(c) No form of informal complaint is prescribed, but in substance the letter or other writing must contain the essential elements of a complaint, including name and address of the complainant, the names of the carrier or carriers against which complaint is made, a statement that the act has been violated by the carrier or carriers named, indicating when, where and how, and a request for affirmative relief. It is desirable that the informal complaint be accompanied by copies in sufficient number to enable the Commission to transmit one to each carrier named, and it may be accompanied by supporting papers. Proceedings thus instituted on the informal docket are without prejudice to complainant's right to file and prosecute formal complaint, whereupon the proceedings on the informal docket will be discontinued.

(d) Section 16 of the act, as amended by section 424 of the transportation act, 1920, provides that all complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such two years or within 90 days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to and including 90 days from the time such action by the carrier is begun. In either case the cause of action in respect of a shipment of property shall, for the purposes of said section 16, be deemed to accrue upon

delivery or tender of delivery thereof by the carrier, and not after. Section 206, subdivision (f), of the transportation act, 1920, provides that the period of federal control shall not be computed as a part of the periods of limitation in claims for reparation to the Commission for causes of action arising prior to federal control. The period of time within which complaints for recovery of damages shall be filed with the Commission under these statutory provisions, and those cited in Appendix 1, will be referred to in these rules as the statutory period.

(e) A complaint for the recovery of damages may be informal, but must be filed within the statutory period, and, if informal, should contain, in addition to the matters above indicated, such data* as will serve to identify with reasonable definiteness the shipments or other transportation services in respect of which recovery is sought, the carriers participating, the kind and amount of injury sustained, when and by whom, and, if any recovery is sought on behalf of others than complainant, a statement of the capacity or authority in or by which complaint is made in their behalf. Notification to the Commission that a complaint may or will be filed later for the recovery of damages is not a filing of complaint within the meaning of the statute.

* Illustrative of pertinent data are, in case of shipments, their dates, origins, destinations, consignors, and consignees, dates of delivery or tender of delivery, car numbers and initials, if in carloads, routes of movement, if known, commodities transported, weight, charges assessed, at what rate, when and by whom paid, and by whom borne.

(f) Carriers willing to pay damages for violations of the act should make application in the form prescribed by the Commission for authority to pay. Such applications will be filed on the special docket under serial number, and, if granted, orders to that effect will be entered on the special docket. Such application, when not made upon informal complaint filed with the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer thereto admitting the matters stated in the application. If a carrier is unable to file such application within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a statement setting forth the facts may be filed

by the carrier within the statutory period. Such statement will be deemed the equivalent of an informal complaint filed on behalf of the shipper and sufficient to stay the operation of the statute.

(g) If an informal complaint for recovery of damages can not be disposed of informally, or is denied on the informal docket, or is by complainant withdrawn from further consideration, the parties affected will be so notified in writing by the Commission. In any such case the matter will not be reconsidered unless, within six months after the date of mailing such notice to complainant, it is resubmitted on the informal docket or formal complaint is filed. If so filed the formal complaint will be deemed to relate back to the date of filing the informal complaint. If within said six months the matter is not so resubmitted or formal complaint filed, the complainant will be deemed to have abandoned the complaint and no complaint for recovery of damages based on the same cause of action will thereafter be placed on file or considered unless itself filed within the statutory period. (Conference Ruling 508 rescinded.)

(h) Formal complaints must conform to the requirements of rule XXI. The names of all parties complainant and defendant must be stated in full without abbreviation, and the address of each complainant, with the name and address of his attorney, if any, must appear. Each formal complaint must be accompanied by copies in sufficient number to enable the Commission to serve one upon each defendant and retain three for its own use. The Commission will serve the complaint upon each defendant by leaving a copy with its designated agent in Washington, D. C., or, if no such agent has been designated, by posting a copy in the office of the secretary of the Commission.

(i) Complaints should be so drawn as fully and completely to advise the parties defendant and the Commission wherein the provisions of the act have been, are, or / and will be violated, by a continuance of the acts or omissions complained of, and should set forth briefly and in plain language the facts claimed to constitute such violation and the relief sought. Two or more grounds of complaint involving the same principle, subject, or state of facts may be included in one complaint, but should be

separately stated and numbered. The several rates, fares, charges, classifications, regulations, or practices complained of should be set out by specific reference to the tariffs in which they appear whenever that is practicable.

(j) In case violation of two or more sections of the act is alleged, the facts claimed to constitute violation of one section should be stated separately from those in respect of any other section or sections, wherever that can be done by reference or otherwise without undue repetition.

(k) In case violation of section 1 of the act is alleged, the complaint should show whether the rates, fares, or charges assailed have been increased since January 1, 1910.

(l) In case unjust discrimination in violation of section 2 is alleged, the special rate, rebate, drawback, or other device and the manner in which thereby the greater or less compensation complained of has been charged, collected, or received should be specified.

(m) In case undue or unreasonable preference or advantage, or undue or unreasonable prejudice or disadvantage, in violation of section 3, is alleged, the particular person, company, firm, corporation, locality or description of traffic affected thereby, and the particular preference or advantage, or prejudice or disadvantage, relied upon as constituting such violation, should be clearly specified.

(n) If the complaint brings in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of federal control, as causing any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is forbidden and declared unlawful under section 13 of the act as amended by section 416 of the transportation act, 1920, the complaint should also contain appropriate allegations to present for decision the issue of the justness and reasonableness under section 1 of the rates, fares, charges, classifications, regulations, or practices complained of in so far as applicable to interstate or foreign commerce, and the issue

as to what should be the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed in order to remove such advantage, preference, prejudice, or discrimination. The facts should be stated with sufficient definiteness to disclose fully the contention made in respect of any tariff provision made or imposed by authority of any State, or initiated by the President during the period of federal control. The Commission, before proceeding to hear and dispose of such issue, must cause the State or States interested to be notified of the proceeding and must be furnished with copies of the complaint in sufficient number for that purpose.

(o) In case violation of section 4 of the act is alleged, the facts as to compensation charged or received, the respects in which the section was thereby violated, and the tariff provisions applicable, should be stated with particularity.

(p) In case recovery of damages is sought the complaint should contain appropriate allegations showing, in addition to the matters indicated above, such data as will serve to identify with reasonable definiteness the shipments or other transportation services in respect of which recovery is sought, and stating (1) that complainant makes claim for reparation, (2) the name of each individual claimant asking reparation, (3) the names of defendants against which claim is made, (4) the commodities transported, the rate applied, the date when the transportation charges were paid, by whom paid, and by whom borne, (5) the period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery, (6) the points of origin and destination, either specifically, or, where they are numerous, by definite indication of a defined territorial or rate group of the points of origin and destination, and, if known, the routes of movement, (7) the nature and amount of the injury sustained by each claimant, and (8) if any reparation is sought on behalf of others than the complainant, in what capacity or by what authority complaint is made in their behalf.

(q) The Commission will consider as in substantial compliance with the statute of limita-

tions a complaint in which the complainant alleges that the matters complained of, if continued in the future, will constitute violations of the act in the particulars and to the extent indicated, and prays reparation accordingly on all shipments affected thereby which may move during the pendency of the proceeding and on which the transportation charges shall be paid and borne by the complainant.

(r) If a general rate adjustment is challenged in the complaint, or many shipments or points of origin and destination are involved, it is the practice of the Commission to find and determine in its report the issues as to violation of the act, injury thereby to complainant, and right to reparation, and thereafter to afford the parties opportunity to agree or make proof respecting the shipments and amount of reparation due under its finding before entering its order awarding reparation. See rule V. In such cases freight bills and other exhibits bearing on the details of shipments, and the amount of reparation on each, need not be produced at the hearing unless called for or needed to develop other pertinent facts.

(s) Except under unusual circumstances, and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically prayed for, or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

(t) Supplemental complaints may be tendered for filing by the parties complainant against the parties defendant in the original complaint, setting forth any causes of action under the act alleged to have accrued in favor of the complainants and against the defendants since the filing of the original complaint, and, upon leave granted, will be filed and served by the Commission as provided for original complaints, and heard, considered, and disposed of therewith in the same proceeding, if practicable.

(u) If recovery of damages is sought by supplemental complaint it must be filed with the Commission within the statutory period.

(v) Cross-complaints. See rule IV.

IV

Answers

(a) Answers must conform to the requirements of rule XXI.

(b) Answers to formal complaints must be filed with the Commission within 20 days after the day on which the complaint was served. For defendants having general offices at or west of El Paso, Tex., Salt Lake City, Utah, or Spokane, Wash., said period of 20 days is extended to 30 days. The periods so fixed may be shortened or extended by the Commission when it deems advisable. The answer must in the same period be served as provided in rule VI. Any defendant failing to file and serve answer within said period will be deemed in default, and issue as to such defendant will be thereby joined.

(c) Answers to petitions in intervention or amended complaints filed and served upon leave granted need not be separately made unless the defendants so elect, and their answers to the formal complaint will be deemed answers to the petition in intervention. Answers if separately made should be filed and served as promptly as possible and within the same period after service of petition in intervention as is above provided for answers after service of complaints. Answers to cross-complaints filed and served upon leave granted must be filed and served within the same period after service of the cross-complaint.

(d) All answers should be so drawn as fully and completely to advise the parties and the Commission of the nature of the defense, and should admit or deny specifically and in detail each material allegation of the pleading answered.

(e) An answer denying that an alleged discrimination is unjust under section 2 of the act, or that an alleged preference or prejudice is undue or unreasonable under section 3 of the act, should state fully the grounds relied upon in making such denial.

(f) Whenever it is apparent from the pleading answered, either by direct allegation or otherwise, that a departure from the requirements of the fourth section of the act is involved, the answer should set forth by number the particular application or order, if any, which protects such departure.

(g) It is desired that every effort be made to narrow the issues upon hearing. Matters alleged as affirmative defenses should be separately stated and numbered. Counter-claims and set-

offs against shippers are not within the jurisdiction of the Commission.

(h) Cross-complaints alleging violations of the act by other carriers, parties to the proceeding, or seeking relief against them under the act, may be tendered for filing by defendants with their answers, and, upon leave granted, will be filed and served by the Commission in the manner provided in rule III for complaints. In such cases the cross-complaint will be heard, considered, and disposed of in connection with the issues tendered by the complaint in the same proceeding.

(i) If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the opposing parties must be filed, setting forth when and how the complaint has been satisfied.

V

Reparation Statements—Formal Claims for Reparation Based upon Findings of the Commission

(a) When the Commission finds that reparation is due, but that the amount can not be ascertained upon the record before it, the complainant should immediately prepare a statement, showing details of the shipments on which reparation is claimed, in accordance with form 5. (See p. 34). The statement should not include any shipment not covered by the Commission's findings, or any shipment on which complaint was not filed with the Commission within the statutory period. See rule III. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges for checking and certification as to its accuracy. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case its certificate must be concurred in by like signature on behalf of a carrier defendant.

(b) If the shipments moved over more than one route a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be

listed in a single statement if grouped according to routes.

(c) Statements so prepared and certified shall be filed with the Commission, whereupon it will consider entry of an order for reparation. The filing of statements will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. See rule III.

(d) All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and correct agreed statements submitted to the Commission.

VI

Service

(a) Formal complaints and, upon leave granted, petitions in intervention, supplemental complaints, cross-complaints, and amended complaints, will be served by the Commission, and copies of each must be furnished in sufficient number, as provided in rule III in respect of complaints.

(b) Answers, petitions, motions, applications, notices, and all other papers, except depositions, in proceedings pending before the Commission upon its formal docket, must, when filed or tendered for filing by the Commission, show service thereof upon all parties to the proceeding. Such service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy to each party.

(c) When any party has appeared by attorney service upon such attorney will be deemed service upon the party.

VII

Amendments

Amendments to any pleading will be allowed or refused by the Commission at its discretion.

VIII

Continuances and Extensions of Time

Continuances and extensions of time will be granted or denied by the Commission at its discretion.

IX

Stipulations

The parties may, by stipulation in writing filed with the Commission, or presented at the

hearing, agree upon any facts involved in the proceeding. It is desired that the facts be thus agreed upon in so far as and whenever practicable.

X

Hearings

(a) When issue is joined upon formal complaint by service of answer, or by failure of defendant to answer, the Commission will assign a time and place for hearing. Witnesses will be examined orally before the Commission, a Commissioner, or one of its examiners, unless their testimony is taken by deposition or the facts are agreed upon as provided for in these rules.

(b) At hearings on formal complaint the complainant shall open and close. At hearings upon applications for relief from any provision of the act the applicant shall open and close. At hearings of investigation and suspension proceedings the respondent shall open and close. At hearings of all other investigations on the motion of the Commission, the Commission shall open and close, except as the Commission may prescribe a different order or the presiding Commissioner or examiner may otherwise direct. In hearings of several proceedings upon a consolidated record the presiding Commissioner or examiner shall designate who shall open and close. Interveners shall follow the party in whose behalf the intervention is made, and in all cases where the intervention is not in support of either original party the presiding Commissioner or examiner shall designate at what stage such interveners shall be heard.

XI

Depositions

(a) The deposition of a witness for use in a proceeding pending before the Commission may, after issue joined, be taken in compliance with the following rules of procedure, prescribed under section 17 of the act, but not otherwise.

(b) Such depositions may be taken before a special agent or examiner of the Commission, or any judge or commissioner of any court of the United States, or any clerk of a district court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary

public not being of counsel or attorney to either of the parties nor interested in the event of the proceeding or investigation, according to such designation as the Commission may make in any order made by it in the premises, except that where such deposition is taken in a foreign country it may be taken before an officer or person designated by the Commission or agreed upon by the parties by stipulation in writing to be filed with the Commission.

Any party desiring to take the deposition of a witness in such a proceeding shall notify the Commission to that effect, and in such notice shall state the time when, the place where, and the name and post-office address of the party before whom it is desired that the deposition be taken, the name and post-office address of the witness, and the subject matter or matters concerning which the witness is expected to testify, whereupon the Commission will make and serve upon the parties or their attorneys an order wherein the Commission shall name the witness whose deposition is to be taken, and specify the time when, the place where, and the party before whom the witness is to testify, but such time and place, and the party before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as those named in said notice to the Commission.

(c) Every person whose deposition is so taken shall be cautioned and sworn (or affirmed, if he so request) to testify the whole truth and nothing but the truth concerning the matter about which he shall testify, and shall be carefully examined. His testimony shall be reduced to typewriting by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so subscribed and certified it shall, together with two copies thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the Commission at its office in Washington, D. C. Upon receipt of the deposition and copies the Commission will file in the record in said proceeding such deposition and forward one copy to the complainant or his attorney and the other copy to the defendant or its attorney, except that where there are more than one complainant or defendant the copies

will be forwarded by the Commission to the parties designated by such complainants or defendants, as the case may be.

(d) Such depositions must conform to the specifications of rule XXI.

(e) No deposition shall be taken except after six days' notice to the parties, and where the deposition is taken in a foreign country such notice shall be at least 15 days.

(f) No such deposition shall be taken either before the proceeding is at issue, or, unless under special circumstances and for good cause shown, within 10 days prior to the date of the hearing thereof assigned by the Commission, and where the deposition is taken in a foreign country it shall not be taken after 30 days prior to such date of hearing.

(g) Witnesses whose depositions are taken pursuant to these rules and the magistrate or other officer taking the same, unless he be a special agent or examiner of the Commission, shall severally be entitled to the same fees as are paid for like service in the courts of the United States, which fees shall be paid by the party or parties at whose instance the depositions are taken.

XII

Witnesses and Subpoenas

(a) Subpoenas requiring the attendance of witnesses from any place in the United States at any designated place of hearing may be issued by any member of the Commission.

(b) Subpoenas for the production of books, papers, or documents, unless directed by the Commission upon its own motion, will issue only upon application in writing. Applications to compel witnesses who are not parties to the proceedings, or agents of such parties, to produce documentary evidence must be verified and must specify, as nearly as may be, the books, papers, or documents desired and the facts to be proven by them. Applications to compel a party to the proceeding to produce books, papers, or documents should set forth the books, papers, or documents sought, with a showing that they will be of service in the determination of the proceeding.

(c) Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the United States, such fees to be

paid by the party at whose instance the testimony is taken.

XIII

Documentary Evidence

(a) Where relevant and material matter offered in evidence by any party is embraced in a book, paper, or document containing other matter, not material or relevant, the party must plainly designate the matter so offered. If the other matter is in such volume as would unnecessarily cumber the record, such book, paper, or document will not be received in evidence but may be marked for identification and, if properly authenticated, the relevant and material matter may be read into the record, or, if the presiding Commissioner or examiner so directs, a true copy of such matter, in proper form, shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys appearing at the hearing, who shall be afforded opportunity to examine the book, paper, or document, and to offer in evidence in like manner other portions thereof if found to be material and relevant.

(b) In case any portion of a tariff, report, circular, or other document on file with the Commission is offered in evidence, the party offering the same must give specific reference to the items or pages and lines thereof to be considered. The Commission will take notice of items in tariffs and annual or other periodical reports of carriers properly on file with it or in annual, statistical, and other official reports of the Commission. When it is desired to direct the Commission's attention to such tariffs or reports upon hearing or in briefs or argument it must be done with the precision specified in the second preceding sentence. In case any testimony in proceedings other than the one on hearing is offered in evidence, a copy of such testimony must be presented as an exhibit. When exhibits of a documentary character are to be offered in evidence, copies must be furnished to opposing counsel.

(c) All exhibits showing rates or distances must, by proper I. C. C. number reference, indicate the tariff authority for the rates, and must also show by lines and junction points the routes via which the distances are computed, as well as the authority for the distances used.

(d) All exhibits received in evidence are bound with the rest of the record in covers of uniform size. It thus becomes desirable that, wherever practicable, they should be on one side only of sheets not exceeding 12½ inches from top to bottom by 22 inches in width, and imperative that a sufficient margin for binding, preferably 1½ inches, be left blank on the left side of each sheet. They must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed, type-written, mimeographed, planographed, photographed, or otherwise. The use of hectograph and white-line blue prints is discouraged.

(e) Wherever practicable the sheets of each exhibit and the lines of each sheet should be numbered, and, if the exhibit consists of 5 or more sheets, the first sheet or title page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained in the exhibit. It is desirable that, wherever practicable, rate comparisons and other evidences should be condensed into tables.

(f) Where agreed upon by the parties at or after the hearing, the presiding Commissioner or examiner, if he deems advisable, may receive specified documentary evidence as a part of the record within a time to be fixed by him, but which shall expire not less than ten days before the date fixed for filing and serving briefs.

(g) Except as above provided, or as may be expressly permitted in particular instances, the Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with the proceeding after the close of the testimony, and will return the same to the sender.

XIV

Briefs and Oral Argument

(a) Briefs must be printed and comply with the requirements of rule XXI. The date of each brief must appear on its front cover or title page. Each brief should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record or exhibit where the evidence appears. It should include requests for such specific findings as the party thinks the Commission should make.

(b) Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain. The abstract of evidence should follow the statement of the case and precede the argument. Every brief of more than 20 pages shall contain on its front fly-leaves a subject index with page references, the subject index to be supplemented by a list of all cases cited, alphabetically arranged, with references to the pages where the citations appear. In proceedings upon complaint alleging undue prejudice to or preference of any locality as contrasted with another locality, or otherwise attacking a rate relationship, the complainant should insert in his brief opposite the statement of the case a small map or chart of the territory showing the situation involved.

(c) Briefs not filed with the Commission and served on or before the dates fixed therefor will not be received except by special permission of the Commission. All briefs must be accompanied by notice, showing service upon all other parties or their attorneys who appeared at the hearing or on brief, and 20 copies of each brief shall be furnished for the use of the Commission. Applications for extension of time in which to file briefs shall be by petition, in writing, stating facts on which the application rests, which must be filed with the Commission at least five days before the time fixed for filing such briefs.

(d) For application in cases designated in the notices setting them for hearing as "proposed report" cases, the following procedure will govern, superseding that prescribed elsewhere in these rules in so far as conflicting therewith:

1. If oral argument before the presiding Commissioner or examiner is desired he should be so notified at or before the hearing and may arrange to hear the argument at the close of the testimony within such limits of time as he may determine, having regard to other assignments for hearing before him. Such argument will be transcribed and bound with the transcript of testimony, and will be available to the Commission for consideration in deciding the case. The making of such argument shall not preclude oral argument before the Commission, or a Division thereof, and application therefor may be made as hereinafter provided.

2. Only one initial brief shall be filed by each party. The presiding Commissioner or examiner shall fix for all parties the same time within which to file their briefs. Reply briefs are not permitted at this stage.

3. After expiration of the time set for briefs the examiner will prepare his proposed report containing the statement of the issues and facts and the findings and conclusions which he thinks should be made. This proposed report will be served by mailing copies to the parties or attorneys who appeared at the hearing or upon brief, except that in general investigations copies may also be mailed in the Commission's discretion to other parties whose appearances are noted of record.

4. Within 20 days after service of the proposed report any party may file and serve, in the manner prescribed for briefs, exceptions to the examiner's proposed report and brief in support of the exceptions. Exceptions and brief should be contained in one print. Within 10 days after expiration of the time so fixed, briefs in reply to the exception briefs may be filed and served, but will not be received later except under leave granted upon application therefor. Applications for oral argument before the Commission or a Division thereof if made by a party filing exceptions must accompany the exceptions, or if made by a party not filing exceptions must be filed not later than 10 days after the time fixed for filing and service of exceptions. Parties or attorneys at El Paso, Tex., Salt Lake City, Utah, Spokane, Wash., or points west thereof, who appeared at the hearing or upon brief, will be allowed five days' additional time for filing and serving exceptions, exception briefs, and reply briefs, respectively.

5. Exceptions to the examiner's proposed report either as to statements of fact or matters of law should be specific. If exception is taken to matters of law or conclusions the points relied upon should be stated separately and clearly. If exception is taken to any statement of fact reference should be made to the pages or parts of the record relied upon and a corrected statement incorporated in the exception brief.

6. In the absence of exceptions that are sustained or of ascertained error the statement of the issues and of the facts by the examiner will ordinarily be taken by the Commission as the basis of its report.

(e) Except as hereinabove provided in subdivision (d) of this rule, briefs for the various parties shall be filed in the same order as governs in the taking of their testimony at hearings. At the close of the testimony in each case the presiding Commissioner or examiner will fix the time for filing and service of the respective brief as follows, unless good cause for variation therefrom is shown: For the opening brief, 30 days from close of testimony; for the brief of the opposing party, 15 days after the date fixed for the opening brief; for reply brief, 10 days after the date fixed for the brief of the opposing party. Briefs of interveners shall be filed and served within the time fixed for the brief of the party in whose behalf the intervention is made, or within such other time as may be fixed by the presiding Commissioner or examiner. Parties who fail to file opening brief, as required by this rule, will not be permitted to file reply to brief of opposing party. Except as provided in subdivision (d) of this rule, applications for oral argument before the Commission or Division thereof shall be made at the hearing or in writing within 10 days after the close of testimony.

XV

Applications for Rehearings, Rearguments, or Modification of Orders

(a) Applications for further hearing in a proceeding before final submission, for reopening a proceeding after final submission, or for rehearing or reargument after decision, must be made by petition, stating specifically the grounds relied upon, filed with the Commission and served by the petitioner upon all parties or attorneys who appeared at the hearing, or oral argument if had, or on brief.

(b) If the application be for further hearing before final submission, or for reopening the proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated and it must appear not to be merely cumulative.

(c) If the application be for rehearing or reargument, the matters claimed to have been erroneously decided must be specified and the alleged errors briefly stated. If thereby any order of the Commission is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing, or of conse-

quences which would result from compliance therewith, the matters relied upon by the petitioner must be fully set forth in the petition.

(d) Applications for modification of orders which seek only change in the date when they shall take effect or in the period of notice thereby prescribed must be made by petition seasonably filed and served in like manner as other applications under this rule, except that, in case of unforeseen emergency satisfactorily shown by the applicant, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties or attorneys who appeared as aforesaid.

(e) A petition for rehearing that part of any case relating to reparation must be filed within 60 days after service of the report therein.

(f) Each petition filed under this rule shall be accompanied by 15 copies thereof for the use of the Commission, and by notice showing service upon the parties or attorneys who appeared as aforesaid. Within 10 days after such service any adverse party may file and serve in like manner a reply to the petition, the reply so filed to be accompanied by like number of copies for use by the Commission.

XVI

Transcript of Testimony

(a) One copy of the transcript of testimony will be furnished by the Commission without charge for the use of the complainant and one copy for the use of the defendant. If two or more complainants or defendants have appeared at the hearing, such complainants or defendants must designate to whom the copy for their use shall be delivered. A similar course will be pursued in proceedings involving the suspension of tariffs.

(b) In proceedings instituted by the Commission on its own motion, other than proceedings involving the suspension of tariffs, no copies of the transcript will be furnished by the Commission.

XVII

Compliance with Orders

When an order has been issued the defendants or respondents named therein must promptly notify the Commission on or before the date upon which such order becomes effective

whether or not compliance has been made therewith. If a change in rates is required the notification must be given in addition to the filing of proper tariffs, and must specify the I. C. C. numbers of the tariffs so filed.

XVIII

Applications under Fourth Section

Any common carrier subject to the act may apply to the Commission, under the proviso clause of the fourth section, for such authorization as it is empowered to grant thereunder. Such application must conform to rule XXI. The application should specify the places and traffic involved, the rates, fares, or charges on such traffic for the shorter and longer distances, the carriers other than the applicant which may be interested in the traffic, the special nature of the case, the character of the hardship claimed to exist, and the extent of the relief sought by the applicant. Upon the filing of such application the Commission will take such action as the circumstances of the case require.

XIX

Suspensions

Suspensions of tariff schedules under section 15 of the act will not ordinarily be considered unless protest and application therefor is made in writing or by telegram at least 10 days before the effective date named in the schedule. Applications for suspensions must indicate the schedule affected by its I. C. C. number and give specific reference to the items against which protest is made, together with a statement of the grounds thereof. If such application is made by telegram it must be confirmed and followed by application in writing and should succinctly state the substance of the matters to be set forth in the written application. Seven copies of each written application should be furnished to the Commission.

XX

Information to Parties

The Secretary of the Commission will, upon request, advise as to the form of complaint, answer, or other paper to be filed in any proceeding.

XXI

Specifications as to Complaints, Answers, Petitions, Applications, Briefs, Etc.

(a) All formal complaints, answers, motions, petitions, applications, notices, depositions, or other papers to be filed, must be typewritten or printed.

(b) If typewritten they must be on paper not more than 8½ inches wide or 12 inches long, weighing not less than 16 pounds to the ream, folio base 17 by 22 inches, with left-hand margin not less than 1½ inches wide. The impression must be on only one side of the paper.

(c) If printed they, as well as briefs, must be in 10 or 12 point type, on good unglazed paper, 5⅞ inches wide by 9 inches long, with inside margin not less than 1 inch wide, and with double-ledged text and single-ledged citations.

(d) Complaints, answers, motions, petitions, applications, and notices must be signed in ink by the party, petitioner, or applicant, or by his or its duly authorized attorney, and must show the office and post-office address of the signer.

XXII

Office and Address of the Commission

(a) Pleadings and other papers required to be filed with the Commission may be transmitted by mail or express, or otherwise delivered, but must be received for filing at its office in Washington, D. C., within the time limit, if any, for such filing. That office is open from 9 a. m. to 4.30 p. m. of each business day.

(b) All communications to the Commission must be addressed to Washington, D. C., unless otherwise specifically directed.

APPROVED FORMS

These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary.

No. 1

COMPLAINT

BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINT

v.
THE _____ RAILROAD COMPANY,
_____ RAILWAY COMPANY. } [Insert without abbreviation corporate title of carrier or carriers defendant.]

The complaint of the above-named complainant—respectfully shows:

I. That [complainant or complainants should here state nature and place of business, also whether a corporation, firm, or partnership, and if a firm or partnership, the individual names of the parties composing the same.]

II. That the defendant—above named is a/are common carrier—engaged in the transportation of [passengers and] property, wholly by railroad [or, partly by railroad and partly by water], between points in the State of _____ and points in the State of _____, and as such common carrier— is/are subject to the provisions of the interstate commerce act.

III. That [state in this and subsequent paragraphs to be numbered IV, V, etc., the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, each point of origin and point of destination between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, defined territorial or rate groups and typical points should be designated. Whenever practicable tariff references should be given. See rule III.]

Where unlawful discrimination is charged, the facts constituting the basis of the charge should be clearly stated; that is, if the unlawful discrimination be under section 2, the person or persons claimed to be favored and the person or persons claimed to be injured should be named, and the kind of service and kind of traffic, together with the claimed similarity of circumstances and conditions of transportation, should be set forth. See rule III (1). If the discrimination be under section 3, the particular person, company, firm, corporation, locality, or traffic claimed to be accorded undue or unreasonable preference or advantage, or subjected to undue or unreasonable prejudice or disadvantage, should be stated. See rule III(m). If the discrimination be under section 4, the particular provision of the section claimed to be violated—that is, whether the long-and-short-haul provision or the aggregate of intermediate rates provision—as well as the facts constituting such violation, should be stated. See rule III(o).]

X. That by reason of the facts stated in the foregoing paragraphs complainant—has/have been subjected to the payment of rates [fares or charges, etc.] for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section 1 of the interstate commerce act, and/or (2) unjustly discriminatory in violation of section 2, and/or (3) unduly preferential or prejudicial in violation of section 3, and/or (4) in violation of the long-and-short-haul [or, aggregate of intermediate rates] provision of section 4 thereof. [Use one or more of the allegations numbered 1, 2, 3, 4, according to the facts as intended to be charged.] That complainant—has/have been injured thereby to his/their damage in the sum of _____ dollars.

Wherefore complainant—pray— that defendant— may be [severally] required to answer the charges herein; that after due hearing and investigation an order be made commanding said defendant— [and each of them] to cease and desist from the aforesaid violations of said act, and establish

and put in force and apply in future to the transportation of ——— between the origin and destination points named in paragraph ——— hereof, in lieu of the rates, [fares, or charges, etc.] named in said paragraph, such other rates [fares, or charges, etc.] as the Commission may deem reasonable and just [and also pay to complainant— by way of reparation for the unlawful charges hereinbefore alleged the sum of ———, or such other sum as, in view of the evidence to be adduced herein, the Commission shall determine that complainant— is/are entitled to as an award of damages under the provisions of said act for violation thereof], and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at ———, 19——.

_____,
[Complainant's signature.]

_____,
[Office and P. O. address.]

_____,
[Attorney's signature.]

_____,
[Office and P. O. address.]

No. 2

ANSWER

BEFORE THE INTERSTATE COMMERCE COMMISSION

ANSWER

v.
THE ——— RAILROAD COMPANY.

} DOCKET No. —.

The above-named defendant—, for answer to the complaint in this proceeding, respectfully state—:

1. [Here follow appropriate and responsive admissions, denials, and averments, answering the complaint paragraph by paragraph.]

Wherefore defendant— pray— that the complaint in this proceeding be dismissed.

Dated ———, 19——

THE ——— RAILROAD COMPANY,
By ———.

_____,
[Title of officer.]

_____,
[Office and P. O. address.]

No. 3

PETITION FOR LEAVE TO INTERVENE.

BEFORE THE INTERSTATE COMMERCE COMMISSION

PETITION

v.

} DOCKET No. —.

Come— now your petitioner—, ———, and respectfully represent— that he has/they have an interest in the matters in controversy in the above-entitled proceeding and desire— to

intervene in and become a party/parties to said proceeding, and for grounds of the proposed intervention say—:

I. That [*petitioner or petitioners should here state nature and place of business, and whether a corporation, firm, or partnership, etc., as in form No. 1.*]

II. [*Petitioner or petitioners should here set out specifically his/their position and interest in the above-entitled proceeding in accordance with rule II (e).*]

Wherefore said _____ pray— leave to intervene and be treated as a party/parties hereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

Dated at _____, 19____.

_____,
[Petitioner's signature.]

_____,
[Office and P. O. address.]

_____,
[Attorney's signature.]

_____,
[Office and P. O. address.]

No. 4

PETITION FOR REHEARING OR REARGUMENT

BEFORE THE INTERSTATE COMMERCE COMMISSION

PETITION

v. _____ } DOCKET No. ____.

Come— now the complainant— [*or defendant—*] in the above-entitled proceeding and respectfully petition— the Commission to grant a rehearing [*or reargument*] therein, and in support of said petition respectfully show—:

I. [*Here set out specifically the matters claimed to be erroneously decided, with a brief statement of the alleged errors, in conformity with rule XV of the rules of practice.*]

Wherefore petitioner— pray— that a rehearing [*or reargument*] be granted in the above-entitled case and that the Commission enter such further order or orders in the premises as to it may seem reasonable and just.

Dated at _____, 19____.

_____,
Petitioner's signature.

_____,
[Office and P. O. address.]

_____,
[Attorney's signature.]

_____,
[Office and P. O. address.]

IMPORTANT. —Before making out statement read rule V carefully

No. 5

FORM OF REPARATION STATEMENT UNDER RULE V

Claim No. — of Richard Roe under the decision of the Interstate Commerce Commission in Docket No. —.

Date of shipment	Date of delivery or tender of delivery	Date charges were paid	Car initials	Car No.	Origin	Destination	Route	Commodity	Weight	As charged		Should be—		Reparation on basis of the findings of the Commission's decision
										Rate	Amount	Rate	Amount	
Oct. 7, 1918	Oct. 20, 1918	Oct. 25, 1918	N. P.	41585	Pittsburgh, Pa.	Dallas, Tex.	B. & O.; M., K. & T.; M., K. & T. of Tex.	Jelly glasses	30,000	\$1 25	\$375 00	\$1 18	\$348 00	\$27 00
Oct. 10, 1918	Oct. 23, 1918	Oct. 23, 1918	I. C.	6760	do	do	do	do	33,000	1 25	412 50	1 18	382 80	29 70
Dec. 10, 1918	Dec. 23, 1918	Dec. 24, 1918	C. & E. L.	60283	do	do	do	do	32,500	1 24	406 25	1 18	377 00	29 25
Mar. 29, 1919	Apr. 13, 1919	Apr. 13, 1919	U. P.	10248	do	do	do	do	31,500	1 25	390 00	1 18	361 92	28 08
Total											1,583 75		1,469 72	114 03

The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.
MARCH 30, 1920.

X. Y. Z. Ry Co.,

Collecting Carrier, Defendant,¹

By JOHN SMITH, Auditor.

Concurred in—²

A. B. C. Ry Co., Defendant

By WILLIAM JONES, Auditor

RICHARD ROE, Claimant

By JOHN DOE, Attorney.

— STREET, CHICAGO, ILL., March 15, 1920.

¹ If not a defendant, strike out word "defendant."

² For concurring certificate in case collecting carrier is not a defendant.

Special Reparation Docket

Page 1

Interstate Commerce Commission

ORDER

At a session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 4th day of August, A. D. 1920, it was ordered that applications on the Commission's special docket for authority to make reparation (except as to charges assessed by or through the President during Federal control) be made on the following form.

(SEAL)

Secretary.

NOTICE.—Attention is directed to Conference Ruling 396. This Commission will not ordinarily consider upon the special docket a claim for reparation unless the rate, rule, or regulation upon basis of which adjustment is sought has been published and made applicable via the route over which shipment moved.

When a claim has been declined by the Commission on the special docket, it may not be reconsidered on that docket if it is not again submitted within a period of six months from the date upon which it was denied, nor may it be filed as a formal complaint unless such formal complaint be filed within six months after the parties have been notified by the Commission that the claim cannot be determined informally: Provided, however, That this ruling does not apply to complaints for reparation filed within the period of limitation set forth in Section 16 of the Interstate Commerce Act and Section 206(f) of the Transportation Act, 1920. See Rule III, Rules of Practice.

The requirements of this form must be complied with in every case.

SPECIAL DOCKET No.

Complainant	} Complainant's No.
vs.	
.....	
.....	
Defendant	Co. Claim No.
	Co. Claim No.
	Co. Claim No.
	Request for authority to pay \$.

To THE INTERSTATE COMMERCE COMMISSION:

The
 Company respectfully requests an order herein authorizing the payment to the above-named claimant, of State of
 of the sum of Dollars
 (\$), as special reparation in connection with the following shipment:

Commodity
 Number of shipments or carloads aggregate weight

From to Reconsigned at
 (Point of origin) (Destination)

Consignor consignee

Bill of lading issued by Co., at

Date 19 (Use initials) . Shipment moved as follows:

..... Co., from to via
 (Use initials)
 Co., from to via
 Co., from to via

Aggregate freight charges actually collected, \$ date paid, 19

By whom paid to carrier Date of delivery 19

Give reference to previous cases which involved the same rate situation

(Continued on next page)

(If combination rate legally applicable, show each factor thereof)

Rate legally applicable..... $\left\{ \begin{array}{l} \text{ton} \\ \text{or} \\ \text{cwt.} \end{array} \right.$ carload min..... for..... ft. car.

Tariff authority....., I. C. C. No....., page....., effective.....

Rate sought
to be applied.....per $\left\{ \begin{array}{l} \text{ton} \\ \text{or} \\ \text{cwt.} \end{array} \right.$ carload
min. wt.for.....ft. car.

Tariff authority....., I. C. C. No....., page....., effective.....

Aggregate freight charges at claimed rate would be \$.....

EXPLANATION AND COMMENTS

(Insert here such explanation as the case may require. If shipment was reconsigned, state tariff authority for reconsignment. If shipment was misrouted by carrier, state routing instructions given by consignor, and the proper route in detail; with specific admission that misrouting was caused by carrier's agent.)

(Continued on next page)

N.B.—Statement of billing as referred to in Paragraph 4 of Accounting Officer's Certificate must accompany application.

Page 3

It is admitted that the rates or rules legally applicable at the time and over the route shipment moved were, under all the circumstances and conditions then existing, excessive and unreasonable.

It is agreed that the order of the Commission authorizing refund herein may require that the published tariff rates and rules upon which adjustment is based shall be maintained (as maxima) for a period of not less than one year from the date on which the rates or rules sought to be applied became effective.

The undersigned who makes this application in the name of his company certifies that he has familiarized himself with all the facts and figures upon which this application for reparation is made and knows the same to be correct.

Respectfully submitted,

..... Company,
Defendant.
By*
(City) (State) (Personal signature)
....., 19 Its.....

The undersigned companies join in the foregoing application:

..... Company,
Defendant.
By*
(Personal signature)
Its.....

..... Company,
Defendant.
By*
(Personal signature)
Its.....

*The foregoing application must be personally signed by an executive or general officer of the accounting or traffic department, and not by a subordinate.

I,, have carefully read the foregoing application and certify that the facts as therein set forth have been verified by a check against the accounts affected as audited under my direction, and I now certify that the records of this company show:

1. That the aggregate weight was pounds.
2. That the aggregate freight charge actually collected and retained was \$
3. That the amount of the refund to which the above-named complainant { is entitled, on the basis of the reduced rate, is \$, and that the present rate is \$ per { cwt.
ton.
4. The attached statement of billing, Exhibit 1, corresponds to the checked billing of the auditing department.

.....
(Personal signature)
.....
(Comptroller or General Auditor)

†This certificate must be personally signed by the comptroller or the accounting officer in charge of freight revenue accounts, and not by a subordinate.

The foregoing certificate by the accounting officer of the applicant carrier must be used in every case and must show the aggregate charges on the shipments. But if the charges, or part of the charges, were collected by another carrier or carriers, the following certificates will also be used and in that event the above certificate, so far as the charges collected are concerned, will be understood to be based on and qualified by the assumed correctness of the following certificates.

(Continued on next page)

☒ If the applicant carrier did not collect the freight charges, the carrier which made the collection will use the following supplemental certificate; and if a third carrier collected part of the charges, the special certificate will also be used, and the supplemental certificate will be understood to be based on and qualified by the assumed correctness of the special certificate.

SUPPLEMENTAL CERTIFICATE

I, _____ the _____ of the _____ Rail _____ Company, have carefully read the foregoing application and now certify that the records and accounts of this company, as audited under my direction, show:

1. That the aggregate weight was _____ pounds.
2. That the aggregate freight charge, actually collected and retained, was \$_____.
3. That the attached statement of billing, Exhibit 1, corresponds to the checked billing of the auditing department of this company.

(Comptroller or General Auditor)

*This certificate must be personally signed by the comptroller or accounting officer in charge of freight revenue accounts, not by a subordinate.

☒ When a carrier, other than the applicant and not the carrier using the supplemental certificate, has collected any part of the charges the following special certificate will also be used:

SPECIAL CERTIFICATE

I, _____, the _____ Rail _____ Company, have carefully read the foregoing application and now certify that the records and accounts of this company, as audited under my direction, show:

1. That the aggregate weight was _____ pounds.
2. That additional freight charges were collected by this company to the amount of \$_____ no part of which has been refunded.

(Personal signature)

†_____
(Comptroller or General Auditor)

†This certificate must be personally signed by the comptroller or accounting officer in charge of freight revenue accounts, not by a subordinate.

COMPLAINANT'S CERTIFICATE

I hereby certify that charges of \$_____ on the shipments involved herein were paid and borne as such by _____ Co., and by no other.

By _____ Its _____
Subscribed and sworn to before me this _____ day of _____ A. D. 19_____
(SEAL) _____ Notary Public _____

INSTRUCTIONS—READ CAREFULLY

1. Under section 16 of the Interstate Commerce Act claims for reparation are barred if not filed within two years from the date the cause of action accrues, except that under Section 206(f) of the Transportation Act, 1920, the period of Federal Control shall not be computed as a part of the period of limitation in causes arising prior to Federal Control.

2. This application should be accompanied by the original paid freight bills (and bills of lading if misrouting is involved), which will be returned by the Commission after the claim has been acted upon.

3. Where the application is for authority to refund to the consignee when the papers show that the charges were paid by the consignor, or vice versa, or where the complainant is neither the consignor nor consignee, the Commission requires that a stipulation be filed with the application signed by the consignor, by the consignee, and by an executive or general officer of the carrier in substantially the following form:

TITLE. (Here insert names of complainant and defendants as in application to which stipulation relates.)

The undersigned _____, the consignor of the following-described shipment (here insert date, car number, commodity, and points of origin and destination) and _____, the consignee thereof, and the undersigned _____ Rail _____ Company, stipulate and agree that any order entered in the above-entitled informal complaint for a refund on account of the excessive freight charges collected on said shipment shall be in favor of (here insert name of consignor or consignee, as case may be).

(Signature of consignor)

(Signature of consignee)

By _____ Rail _____ Co.

By _____

Its _____

THE HARTER ACT

Relating to Navigation of Vessels, Bills of Lading, and to Certain Obligations, Duties, and Rights in Connection with the Carriage of Property

Be it enacted, etc., That it shall not be lawful for the manager, agent, master, or owner of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to insert in any bill of lading or shipping document any clause, covenant, or agreement whereby it, he, or they shall be relieved from liability for loss or damage arising from negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property committed to its or their charge. Any and all words or clauses of such import inserted in bills of lading or shipping receipts shall be null and void and of no effect.

SECTION 2. That it shall not be lawful for any vessel transporting merchandise or property from or between ports of the United States of America and foreign ports, her owner, master, agent, or manager, to insert in any bill of lading or shipping document any covenant or agreement whereby the obligations of the owner or owners of said vessel to exercise due diligence, properly equip, man, provision, and outfit said vessel, and to make said vessel seaworthy and capable of performing her intended voyage, or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo and to care for and properly deliver same shall in any wise be lessened, weakened, or avoided.

SEC. 3. That if the owner of any vessel transporting merchandise or property to or from any port in the United States of America shall exercise due diligence to make the said vessel in all respects seaworthy and properly manned, equipped, and supplied, neither the vessel, her owner or owners, agent, or charterers shall become or be held responsible for damage or loss resulting from faults or errors in navigation or in the management of said vessel, nor shall the vessel, her owner or owners, charterers, agent, or master be held liable for losses arising from dangers of the sea or other navigable waters, acts of God, or public enemies, or the inherent defects, quality, or vice of the thing carried, or from insufficiency of package, or seizure under legal process or for loss resulting from any act or omission of the shipper or owner of the goods, his agent or representative, or from saving or attempting to save life

or property at sea, or from any deviation in rendering such service.

SEC. 4. That it shall be the duty of the owner or owners, masters, or agent of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to issue to shippers of any lawful merchandise a bill of lading, or shipping document, stating, among other things, the marks necessary for identification, number of packages, or quantity, stating whether it be carrier's or shipper's weight, and apparent order or condition of such merchandise or property delivered to and received by the owner, master or agent of the vessel for transportation, and such document shall be prima facie evidence of the receipt of the merchandise therein described.

SEC. 5. That for a violation of any of the provisions of this act the agent, owner or master of the vessel guilty of such violation, and who refuses to issue on demand the bill of lading herein provided for, shall be liable to a fine not exceeding two thousand dollars. The amount of the fine and costs for such violation shall be a lien upon the vessel, whose agent, owner or master is guilty of such violation, and such vessel may be libeled therefor in any district court in the United States, within whose jurisdiction the vessel may be found. One-half of such penalty shall go to the party injured by such violation and the remainder to the Government of the United States.

SEC. 6. That this act shall not be held to modify or repeal sections forty-two hundred and eighty-one, forty-two hundred and eighty-two, and forty-two hundred and eighty-three of the Revised Statutes of the United States, or any other statutes defining the liability of vessels, their owners, or representatives.

SEC. 7. Sections one and four of this act shall not apply to the transportation of live animals.

SEC. 8. That this act shall take effect from and after the first day of July, eighteen hundred and ninety-three.

United States Shipping Act

United States Shipping Board Tariff Rules

THE Merchant Marine Act, 1920

UNITED STATES SHIPPING ACT

(39 U. S. Statutes at Large, 728)

CHAPTER 451. An act to establish a United States Shipping Board for the purpose of encouraging, developing, and creating a naval auxiliary and naval reserve and a merchant marine to meet the requirements of the commerce of the United States with its Territories and possessions and with foreign countries; to regulate carriers by water engaged in the foreign and interstate commerce of the United States; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this act:

The term "common carrier by water in foreign commerce" means a common carrier, except ferryboats running on regular routes, engaged in the transportation by water of passenger or property between the United States or any of its Districts, Territories, or possessions and a foreign country, whether in the import or export trade: *Provided*, That a cargo boat commonly called an ocean tramp shall not be deemed such "common carrier by water in foreign commerce."

The term "common carrier by water in interstate commerce" means a common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between one State, Territory, District, or possession of the United States and any other State, Territory, District, or possession of the United States, or between places in the same Territory, District, or possession.

The term "common carrier by water" means a common carrier by water in foreign commerce or a common carrier by water in interstate commerce on the high seas or the Great Lakes on regular routes from port to port.

The term "other person subject to this act" means any person not included in the term "common carrier by water," carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water.

The term "person" includes corporations, partnerships, and associations, existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

The term "vessel" includes all water craft and other artificial contrivances of whatever description and at whatever stage of construction, whether on the stocks or launched, which are used or are capable of being or are intended to be used as a means of transportation on water.

The term "documented under the laws of the United States," means "registered, enrolled, or licensed under the laws of the United States."

* SEC. 2. That within the meaning of this act no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States, and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof.

The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of

Sept. 7, 1916.

(H. R. 15455.)

Public No. 260-64th
Cong., 1st sess.

Shipping act, 1916.

Definitions:
Common carrier by
water in foreign com-
merce.

Proviso.
Ocean tramps ex-
cepted.

Common carrier by
water in interstate com-
merce.

Common carrier by
water.

Other person subject
to this act.

Person.

Vessel.

Documented.

Citizen of the United
States.

Controlling interest
in corporations.

* Amended by Section 38, Merchant Marine Act, 1920.

any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

Act to apply to receivers, assigns, etc.

The provisions of this act shall apply to receivers and trustees of all persons to whom the act applies, and to the successors or assignees of such persons.

Shipping Board created.

* SEC. 3. That a board is hereby created, to be known as the United States Shipping Board, and hereinafter referred to as the board. The board shall be composed of five commissioners, to be appointed by the President by and with the advice and consent of the Senate; said board shall annually elect one of its members as chairman and one as vice-chairman.

Appointment of, by President.

Terms of office of commissioners.

The first commissioners appointed shall continue in office for terms of two, three, four, five, and six years, respectively, from the date of their appointment, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds.

Filling of vacancy.

Qualifications of commissioners.

The Commissioners shall be appointed with due regard to their fitness for the efficient discharge of the duties imposed on them by this act, and to a fair representation of the geographical divisions of the country. Not more than three of the commissioners shall be appointed from the same political party. No commissioner shall be in the employ of or hold any official relation to any common carrier by water or other person subject to this act, or own any stocks or bonds thereof, or be pecuniarily interested therein. No commissioner shall actively engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the board shall not impair the right of the remaining members of the board to exercise all its powers. The board shall have an official seal, which shall be judicially noticed.

Board to be non-political.

Commissioners not to engage in other business.

Removal, vacancies, etc.

Official seal.

Rules of procedure.

The board may adopt rules and regulations in regard to its procedure and the conduct of its business.

Salaries.

† SEC. 4. That each member of the board shall receive a salary of \$7,500 per annum. The board shall appoint a secretary, at a salary of \$5,000 per annum, and employ and fix the compensation of such attorneys, officers, naval architects, special experts, examiners, clerks, and other employees as it may find necessary for the proper performance of its duties and as may be appropriated for by the Congress. The President, upon the request of the board, may authorize the detail of officers of the military, naval, or other services of the United States for such duties as the board may deem necessary in connection with its business.

Detail of military and naval officers to board.

Employees to be under Civil Service. Exceptions.

With the exception of the secretary, a clerk to each commissioner, the attorneys, naval architects, and such special experts and examiners as the board may from time to time find necessary to employ for the conduct of its work, all employees of the board shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil service law.

Expenses of board and its employees to be paid.

The expenses of the board, including necessary expenses for transportation, incurred by the members of the board or by its employees under its orders, in

* Amended by Section 3, Merchant Marine Act, 1920.

† Amended by Section 4, Merchant Marine Act, 1920.

making any investigation, or upon official business in any other place than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the board

Until otherwise provided by law, the board may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the board.

* SEC. 5. That the board, with the approval of the President, is authorized to have constructed and equipped in American shipyards and navy yards or elsewhere, giving preference, other things being equal, to domestic yards, or to purchase, lease, or charter vessels suitable, as far as the commercial requirements of the marine trade of the United States may permit, for use as naval auxiliaries or Army transports, or for other naval or military purposes, and to make necessary repairs on and alterations of such vessels: *Provided*, That neither the board nor any corporation formed under section eleven in which the United States is then a stockholder shall purchase, lease, or charter any vessel—

(a) Which is then engaged in the foreign or domestic commerce of the United States, unless it is about to be withdrawn from such commerce without any intention on the part of the owner to return it thereto within a reasonable time;

(b) Which is under the registry or flag of a foreign country which is then engaged in war;

(c) Which is not adapted, or can not by reasonable alterations and repairs be adapted to the purposes specified in this section;

(d) Which, upon expert examination made under the direction of the board, a written report of such examination being filed as a public record, is not without alteration or repair found to be at least seventy-five per centum as efficient as at the time it was originally put in commission as a seaworthy vessel.

SEC. 6. That the President may transfer either permanently or for limited periods to the board such vessels belonging to the War or Navy Department as are suitable for commercial uses and not required for military or naval use in time of peace, and cause to be transferred to the board vessels owned by the Panama Railroad Company and not required in its business.

* SEC. 7. That the board, upon terms and conditions prescribed by it and approved by the President may charter, lease, or sell to any person, a citizen of the United States, any vessel so purchased, constructed, or transferred.

* SEC. 8. That when any vessel purchased or constructed by or transferred to the board as herein provided, and owned by the United States, becomes, in the opinion of the board, unfit for the purposes of this Act, it shall be appraised and sold at public or private competitive sale after due advertisement free from the conditions and restrictions of this act.

† SEC. 9. That any vessel purchased, chartered, or leased from the board may be registered or enrolled and licensed, or both registered and enrolled and licensed as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided*, That foreign-built vessels admitted to American registry or enrollment and license under this act, and vessels owned, chartered, or leased by any corporation in which the United States is a stockholder, and vessels

Rent of offices.

Auditing accounts.

Board authorized to build, buy, lease or charter vessels.

Preference to be given to American yards.

Naval auxiliaries.

Proviso.

Restrictions as to vessels board may acquire.

Transfer of War and Navy vessels to board.

Board may sell, lease, or charter its vessels.

May sell vessels unfit for service.

Vessels acquired from the board allowed American register and enrollment.

Proviso.

* Amended by Section 2, Merchant Marine Act, 1920.

† Amended by Sections 5 and 18, Merchant Marine Act, 1920.

May engage in coastwise trade.

May be operated only under American documentation.

Subject to navigation laws.

Restrictions on transfer.

Restrictions on transfer of documented vessels.

Vessels may not be sold to foreigners unless first tendered to board.

Penalties.

Seizure of vessels by President for military or naval use.

Compensation for vessels so seized.

Formation by board of \$50,000,000 shipping corporation authorized.

Minority stock ownership by United States forbidden.

Sale of stock.

Proviso.

sold, leased, or chartered to any person, a citizen of the United States, as provided in this act, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.

Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein. No such vessel, without the approval of the board, shall be transferred to a foreign registry or flag, or sold; nor, except under regulations prescribed by the board, be chartered or leased.

No vessel documented under the laws of the United States or owned by any person a citizen of the United States or by a corporation organized under the laws of the United States, or of any State, Territory, District, or possession thereof, except one which the board is prohibited from purchasing, shall be sold to any person not a citizen of the United States or transferred to or placed under a foreign registry or flag, unless such vessel is first tendered to the board at the price in good faith offered by others, or, if no such offer, at a fair price to be determined in the manner provided in section ten.

Any vessel sold, chartered, leased, transferred to or placed under a foreign registry or flag, or operated in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000 or to imprisonment for not more than five years, or both.

SEC. 10. That the President, upon giving to the person interested such reasonable notice in writing as in his judgment the circumstances permit, may take possession, absolutely or temporarily, for any naval or military purpose, of any vessel purchased, leased, or chartered from the board: *Provided*, That if, in the judgment of the President, an emergency exists requiring such action, he may take possession of any such vessel without notice.

Thereafter, upon ascertainment by agreement or otherwise, the United States shall pay the person interested the fair actual value based upon normal conditions at the time of taking of the interest of such person in every vessel taken absolutely, or if taken for a limited period, the fair charter value under normal conditions for such period. In case of disagreement as to such fair value, it shall be determined by appraisers, one to be appointed by the board, one by the person interested, and a third by the two so appointed. The finding of such appraisers shall be final and binding upon both parties.

*SEC. 11. That the board, if in its judgment such action is necessary to carry out the purposes of this act, may form under the laws of the District of Columbia one or more corporations for the purchase, construction, equipment, lease, charter, maintenance and operation of merchant vessels in the commerce of the United States. The total capital stock thereof shall not exceed \$50,000,000. The board may, for and on behalf of the United States, subscribe to, purchase, and vote not less than a majority of the capital stock of any such corporation, and do all other things in regard thereto necessary to protect the interests of the United States and to carry out the purposes of this act. This board, with the approval of the President, may sell any or all of the stock of the United States in such corporation, but at no time shall it be a minority stockholder therein: *Provided*,

That no corporation in which the United States is a stockholder, formed under the authority of this section, shall engage in the operation of any vessel constructed, purchased, leased, chartered, or transferred under the authority of this act, unless the board shall be unable, after a bona fide effort, to contract with any person a citizen of the United States for the purchase, lease, or charter of such vessel, under such terms and conditions as may be prescribed by the board.

The board shall give public notice of the fact that vessels are offered and the terms and conditions upon which a contract will be made, and shall invite competitive offerings. In the event the board shall, after full compliance with the terms of this proviso, determine that it is unable to enter into a contract with such private parties for the purchase, lease, or charter of such vessel, it shall make a full report to the President, who shall examine such report, and if he shall approve the same, he shall make an order declaring that the conditions have been found to exist which justify the operation of such vessel by a corporation formed under the provisions of this section.

At the expiration of five years from the conclusion of the present European war, the operation of vessels on the part of any such corporation in which the United States is then a stockholder shall cease, and the said corporation stand dissolved. The date of the conclusion of the war shall be declared by proclamation of the President. The vessels and other property of any such corporation shall revert to the board. The board may sell, lease, or charter such vessels as provided in section seven and shall dispose of the property other than vessels on the best available terms and, after payment of all debts and obligations, deposit the proceeds thereof in the Treasury to its credit. All stock in such corporations owned by others than the United States at the time of dissolution shall be taken over by the board at a fair and reasonable value and paid for with funds to the credit of the board. In case of disagreement, such value shall be determined in the manner provided in section ten.

SEC. 12. That the board shall investigate the relative cost of building merchant vessels in the United States and in foreign maritime countries, and the relative cost, advantages, and disadvantages of operating in the foreign trade vessels under United States registry and under foreign registry. It shall examine the rules under which vessels are constructed abroad and in the United States, and the methods of classifying and rating same, and it shall examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies, and ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of an American merchant marine. It shall examine the navigation laws of the United States, and the rules and regulations thereunder, and make such recommendations to the Congress as it deems proper for the amendment, improvement, and revision of such laws, and for the development of the American merchant marine. It shall investigate the legal status of mortgage loans on vessel property, with a view to means of improving the security of such loans and of encouraging investment in American shipping.

It shall, on or before the first day of December in each year, make a report to the Congress, which shall include its recommendations and the results of its investigations, a summary of its transactions, and a statement of all expenditures and receipts under this act, and of the operations of any corporation in which the United States is a stockholder, and the names and compensation of all persons employed by the board.

Not to operate ships unless unable to sell, lease, or charter them to private corporations.

Must offer its vessels to private capital in public competition.

Consent of President to operation of ships by such corporation required.

Life of corporations limited.

Disposal of property on dissolution.

Board to take up outstanding stock.

Compensation for

Investigations by board.

Cost of shipbuilding.

Rules of construction and classification.

Marine insurance.

Navigation laws.

Vessel mortgages.

Annual report and recommendations to Congress.

Issuance of \$50,000,-
000 of Panama Canal
bonds authorized.

36 Stat. L., 117, 193
1013.

Proviso.

To be payable within
50 years.

Funds of board per-
manently appropriated.

No common carrier
by water—

To give deferred
rebates.

To use fighting ships.

To retaliate against
any shipper.

To discriminate un-
justly or unfairly.

Penalty.

Agreements.
Must be filed by all
to whom this act ap-
plies.

SEC. 13. That for the purpose of carrying out the provisions of sections five and eleven, no liability shall be incurred exceeding a total of \$50,000,000, and the Secretary of the Treasury, upon the request of the board, approved by the President, shall from time to time issue and sell or use any of the bonds of the United States now available in the Treasury, under the acts of August fifth, nineteen hundred and nine, February fourth, nineteen hundred and ten, and March second, nineteen hundred and eleven, relating to the issue of bonds for the construction of the Panama Canal, to a total amount not to exceed \$50,000,000; *Provided*, That any bonds issued and sold or used under the provisions of this section may be made payable at such time within fifty years after issue, as the Secretary of the Treasury may fix, instead of fifty years after the date of issue, as prescribed in the act of August fifth, nineteen hundred and nine.

The proceeds of such bonds and the net proceeds of all sales, charters, and leases of vessels and of sales of stock made by the board, and all other moneys received by it from any source, shall be covered into the Treasury to the credit of the board, and are hereby permanently appropriated for the purpose of carrying out the provisions of sections five and eleven.

* SEC. 14. That no common carrier by water, shall directly or indirectly—

First. Pay, or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow, a deferred rebate to any shipper. The term "deferred rebate" in this act means a return of any portion of the freight money by a carrier to any shipper, as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term "fighting ship" in this act means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing, or reducing competition by driving another carrier out of said trade.

Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and landing of freight in proper condition; or (c) the adjustment and settlement of claims

Any carrier who violates any provision of this section shall be guilty of a misdemeanor, punishable by a fine of not more than \$25,000 for each offense.

SEC. 15. That every common carrier by water, or other person subject to this act, shall file immediately with the board a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares;

*Amended by Section 20, Merchant Marine Act, 1920.

giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or appropriating earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or co-operative working arrangement. The term "agreement" in this section includes understandings, conferences, and other arrangements.

The board may by order disapprove, cancel, or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be in violation of this act, and shall approve all other agreements, modifications, or cancellations.

Agreements existing at the time of the organization of the board shall be lawful until disapproved by the board. It shall be unlawful to carry out any agreement or any portion thereof disapproved by the board.

All agreements, modifications, or cancellations made after the organization of the board shall be lawful only when and as long as approved by the board, and before approval or after disapproval it shall be unlawful to carry out, in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

Every agreement, modification, or cancellation lawful under this section shall be excepted from the provisions of the act approved July second, eighteen hundred and ninety, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," and amendments and acts supplementary thereto, and the provisions of sections seventy-three to seventy-seven, both inclusive, of the act approved August twenty-seventh, eighteen hundred and ninety-four, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," and amendments and acts supplementary thereto.

Whoever violates any provision of this section shall be liable to a penalty of \$1,000 for each day such violation continues, to be recovered by the United States in a civil action.

SEC. 16. That it shall be unlawful for any common carrier by water, or other person subject to this act, either alone or in conjunction with any other person, directly or indirectly—

First. To make or give any undue or unreasonable preference or advantage to any particular locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever

Second. To allow any person to obtain transportation for property at less than the regular rates then established and enforced on the line of such carrier, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means.

Third. To induce, persuade, or otherwise influence any marine insurance company or underwriter, or agent thereof, not to give a competing carrier by water as favorable a rate of insurance on vessel or cargo, having due regard to the class of vessel or cargo, as is granted to such carrier or other person subject to this act.

SEC. 17. That no common carrier by water in foreign commerce shall demand, charge, or collect any rate, fare, or charge which is unjustly discriminatory between shippers or ports, or unjustly prejudicial to exporters of the United States, as com-

Understandings, conferences, and other arrangements included in term "agreement."

Board may disapprove, cancel or modify any agreement.

Must approve all others.

Existing agreements lawful.

Ones approved by board to be lawful.

Ones approved excepted from anti-trust laws.

26 Stat. L., 209.
28 Stat. L., 570.

37 Stat. L., 647.
33 Stat. L., 730.

Penalty for failure to file agreements.

No common carrier by water:

To give undue preference or advantage.

To use unfair means and devices to obtain lower rates, etc.

To influence marine insurance companies to discriminate.

Common carriers in foreign commerce.

Not to charge discriminatory rates or rates prejudicial to American exporters.

Must observe reasonable practices connected with handling, etc., of freight.

Common carriers in interstate commerce:

Must observe just and reasonable classifications, rates, fares, practices, etc.

Maximum rates, fares, etc., to be filed with board and kept open to public.

Not to charge higher rates than those filed.

Board may prescribe reasonable maximum rates, etc.

Restriction on increase of rates reduced to drive out competitor.

Information detrimental to shipper or consignee not to be disclosed, solicited, etc.

pared with their foreign competitors. Whenever the board finds that any such rate, fare, or charge is demanded, charged, or collected, it may alter the same to the extent necessary to correct such unjust discrimination or prejudice, and make an order that the carrier shall discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare, or charge.

Every such carrier and every other person subject to this act shall establish, observe, and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing, or delivering of property. Whenever the board finds that any such regulation or practice is unjust or unreasonable it may determine, prescribe, and order enforced a just and reasonable regulation or practice.

SEC. 18. That every common carrier by water in interstate commerce shall establish, observe, and enforce just and reasonable rates, fares, charges, classifications, and tariffs, and just and reasonable regulations and practices relating thereto and to the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the receiving, handling, transporting, storing, or delivering of property.

Every such carrier shall file with the board and keep open to public inspection, in the form and manner, and within the time prescribed by the board, the maximum rates, fares, and charges for or in connection with transportation between points on its own route; and if a through route has been established, the maximum rates, fares, and charges for or in connection with transportation between points on its own route and points on the route of any other carrier by water.

No such carrier shall demand, charge, or collect a greater compensation for such transportation than the rates, fares, and charges filed in compliance with this section, except with the approval of the board and after ten days' public notice in the form and manner prescribed by the board, stating the increase proposed to be made; but the board for good cause shown may waive such notice.

Whenever the board finds that any rate, fare, charge, classification, tariff, regulation or practice, demanded, charged, collected or observed by such carrier is unjust or unreasonable, it may determine, prescribe, and order enforced a just and reasonable maximum rate, fare, or charge, or a just and reasonable classification, tariff, regulation or practice.

SEC. 19. That whenever a common carrier by water in interstate commerce reduces its rates on the carriage of any species of freight to or from competitive points below a fair and remunerative basis with the intent of driving out or otherwise injuring a competitive carrier by water, it shall not increase such rates unless after hearing the board finds that such proposed increase rests upon changed conditions other than the elimination of said competition.

SEC. 20. That it shall be unlawful for any common carrier by water or other person subject to this act, or any officer, receiver, trustee, lessee, agent, or employee of such carrier or person, or for any other person authorized by such carrier or person to receive information, knowingly to disclose to or permit to be acquired by any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier or other person subject to this act for transportation in interstate or foreign commerce, which information may be used to the detriment or prejudice of such shipper

or consignee, or which may improperly disclose his business transactions to a competitor, or which may be used to the detriment or prejudice of any carrier; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

Nothing in this act shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States, or of any State, Territory, District, or possession thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

SEC. 21. That the board may require any common carrier by water, or other person subject to this act, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report, or any account, record, rate, or charge, or any memorandum of any facts and transactions appertaining to the business of such carrier or other person subject to this act. Such report, account, record, rate, charge, or memorandum shall be under oath whenever the board so requires, and shall be furnished in the form and within the time prescribed by the board. Whoever fails to file any report, account, record, rate, charge, or memorandum as required by this section shall forfeit to the United States the sum of \$100 for each day of such default.

Whoever wilfully falsifies, destroys, mutilates, or alters any such reports, account, record, rate, charge, or memorandum, or wilfully files a false report, account, record, rate, charge, or memorandum shall be guilty of a misdemeanor, and subject upon conviction to a fine of not more than \$1,000, or imprisonment for not more than one year, or to both such fine and imprisonment.

SEC. 22. That any person may file with the board a sworn complaint setting forth any violation of this act by a common carrier by water, or other person subject to this act, and asking reparation for the injury, if any, caused thereby. The board shall furnish a copy of the complaint to such carrier or other person, who shall within a reasonable time specified by the board, satisfy the complaint or answer it in writing. If the complaint is not satisfied the board shall, except as otherwise provided in this act, investigate it in such manner and by such means, and make such order as it deems proper. The board, if the complaint is filed within two years after the cause of action accrued, may direct the payment, on or before a day named, of full reparation to the complainant for the injury caused by such violation.

The board, upon its own motion, may in like manner and, except as to orders for the payment of money, with the same powers, investigate any violation of this act.

SEC. 23. Orders of the board relating to any violation of this act shall be made only after full hearing, and upon a sworn complaint or in proceedings instituted of its own motion.

All orders of the board other than for the payment of money made under this act shall continue in force for such time, not exceeding two years, as shall be prescribed therein, by the board, unless suspended, modified, or set aside by the board or any court of competent jurisdiction.

SEC. 24. That the board shall enter of record a written report of every investigation made under this act in which a hearing has been held, stating its conclu-

Giving of information on legal process, etc.

In adjusting traffic accounts, etc.

Filing of reports, records, rates, etc., may be required of any person subject to the act.

Penalty for failure to file.

Penalty for filing false reports, etc.

Complaint of any violation may be filed by any person.

Remedy for violations.

Investigations by board on own motion.

Orders of board.

Written reports of hearings to be kept.

sions, decision, and order, and, if reparation is awarded, the findings of fact on which the award is made, and shall furnish a copy of such report to all parties to the investigation.

Such reports as evidence.

The board may publish such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be competent evidence of such reports in all courts of the United States and of the States, Territories, Districts, and possessions thereof.

Board may reverse, modify, etc., orders and grant rehearings.

SEC. 25. That the board may reverse, suspend, or modify, upon such notice and in such manner as it deems proper, any order made by it. Upon application of any party to a decision or order it may grant a rehearing of the same or any matter determined therein, but no such application for or allowance of a rehearing shall, except by special order of the board, operate as a stay of such order.

Investigation of discriminations by foreign Governments against American vessels.

SEC. 26. The board shall have power, and it shall be its duty whenever complaint shall be made to it, to investigate the action of any foreign Government with respect to the privileges afforded and burdens imposed upon vessels of the United States engaged in foreign trade whenever it shall appear that the laws, regulations, or practices of any foreign Government operate in such a manner that vessels of the United States are not accorded equal privileges in foreign trade with vessels of such foreign countries or vessels of other foreign countries, either in trade to or from the ports of such foreign country or in respect to the passage or transportation through such foreign country of passengers or goods intended for shipment or transportation in such vessels of the United States, either to or from ports of such foreign country or to or from ports of other foreign countries. It shall be the duty of the board to report the results of its investigation to the President with its recommendations, and the President is hereby authorized and empowered to secure by diplomatic action equal privileges for vessels of the United States engaged in such foreign trade. And if by such diplomatic action the President shall be unable to secure such equal privileges then the President shall advise Congress as to the facts and his conclusions by a special message, if deemed important in the public interest, in order that proper action may be taken thereon.

Board to report on such to President.

President to secure equal privileges for American vessels.

Power to subpoena witnesses, etc.

SEC. 27. That for the purpose of investigating alleged violations of this act, the board may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence from any place in the United States at any designated place of hearing. Subpoenas may be signed by any commissioner, and oaths or affirmations may be administered, witnesses examined, and evidence received by any commissioner or examiner, or, under the direction of the board, by any person authorized under the laws of the United States or of any State, Territory, District, or possession thereof, to administer oaths. Persons so acting under the direction of the board and witnesses shall, unless employees of the board, be entitled to the same fees and mileage as in the courts of the United States. Obedience to any such subpoena shall, on application by the board, be enforced as are orders of the board other than for the payment of money.

Fees of witnesses.

Enforcement of subpoenas.

Giving of self-incriminating evidence by witnesses may be enforced.

SEC. 28. That no person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence, in obedience to the subpoena of the board or of any court in any proceeding based upon or growing out of any alleged violation of this act; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, except that no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

But no witness to be prosecuted on such evidence.

SEC. 29. That in case of violation of any order of the board, other than an order for the payment of money, the board, or any party injured by such violation, or the Attorney-General, may apply to a district court having jurisdiction of the parties; and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce obedience thereto by a writ of injunction or other proper process, mandatory or otherwise.

Enforcement of orders.

Where suits to be filed.

(a) Other than for payment of money.

SEC. 30. That in case of violation of any order of the board for the payment of money, the person to whom such award was made may file in the district court for the district in which such person resides, or in which is located any office of the carrier or other person to whom the order was directed, or in which is located any point of call on a regular route operated by the carrier, or in any court of general jurisdiction of a State, Territory, District, or possession of the United States having jurisdiction of the parties, a petition or suit setting forth briefly the causes for which he claims damages and the order of the board in the premises.

(b) For payment of money.

In the district court the findings and order of the board shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor shall he be liable for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If a petitioner in a district court finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as part of the costs of the suit.

Findings and orders of board as evidence.

Costs and attorney's fees.

All parties in whose favor the board has made an award of reparation by a single order may be joined as plaintiffs, and all other parties to such order may be joined as defendants, in a single suit in any district in which any one such plaintiff could maintain a suit against any one such defendant. Service of process against any such defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, such defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

Joinder of parties permitted.

Service of process.

No petition or suit for the enforcement of an order for the payment of moneys shall be maintained unless filed within one year from the date of the order.

Time for filing of suits.

SEC. 31. That the venue and procedure in the courts of the United States in suits brought to enforce, suspend, or set aside, in whole or in part, any order of the board shall, except as herein otherwise provided, be the same as in similar suits in regard to orders of the Interstate Commerce Commission, but such suits may also be maintained in any district court having jurisdiction of the parties.

Venue and procedure.

SEC. 32. That whoever violates any provision of this act, except where a different penalty is provided, shall be guilty of a misdemeanor, punishable by fine not to exceed \$5,000.

General penalty provision.

SEC. 33. That this act shall not be construed to affect the power or jurisdiction of the Interstate Commerce Commission, nor to confer upon the board concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission; nor shall this act be construed to apply to intrastate commerce.

Jurisdiction of Interstate Commerce Commission not to be encroached upon.

SEC. 34. That if any provision of this act, or the application of such provision to certain circumstances, is held unconstitutional, the remainder of the act, and the application of such provision to circumstances other than those as to which it is held unconstitutional, shall not be affected thereby.

Effect of decisions on constitutionality.

SEC. 35. That for the fiscal year ending June thirtieth, nineteen hundred and seventeen, the sum of \$100,000 is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, for the purpose of

Initial appropriation.

defraying the expenses of the establishment and maintenance of the board, including the payment of salaries herein authorized.

Clearance may be denied vessel for refusal to take cargo offered by citizen of United States.

SEC. 36. The Secretary of the Treasury is authorized to refuse a clearance to any vessel or other vehicle laden with merchandise destined for a foreign or domestic port whenever he shall have satisfactory reason to believe that the master, owner, or other officer of such vessel or other vehicle refuses or declines to accept or receive freight or cargo in good condition tendered for such port of destination or for some intermediate port of call, together with the proper freight or transportation charges therefor, by any citizen of the United States, unless the same is fully laden and has no space accommodations for the freight or cargo so tendered, due regard being had for the proper loading of such vessel or vehicle, or unless such freight or cargo consists of merchandise for which such vessel or vehicle is not adaptable.

During war or emergency:

SEC. 37. That when the United States is at war or during any national emergency, the existence of which is declared by proclamation of the President, it shall be unlawful, without first obtaining the approval of the board:

No vessel to be transferred to foreign registry.

(a) To transfer to or place under any foreign registry or flag any vessel owned in whole or in part by any person a citizen of the United States or by a corporation organized under the laws of the United States, or of any State, Territory, District, or possession thereof; or

No vessel, shipyard, etc., to be sold, mortgaged, to foreigner.

(b) To sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, (1) any such vessel or any interest therein, or (2) any vessel documented under the laws of the United States, or any interest therein, or (3) any shipyard, dry dock, ship-building or ship-repairing plant or facilities, or any interest therein; or

No contract to construct for foreign account.

(c) To enter into any contract, agreement, or understanding to construct a vessel within the United States for or to be delivered to any person not a citizen of the United States, without expressly stipulating that such construction shall not begin until after the war or emergency proclaimed by the President has ended; or

No agreement to vest control in foreigners.

(d) To make any agreement or effect any understanding whereby there is vested in or for the benefit of any person not a citizen of the United States, the controlling interest or a majority of the voting power in a corporation which is organized under the laws of the United States, or of any State, Territory, District, or possession thereof, and which owns any vessel, shipyard, dry dock, or ship-building or ship-repairing plant or facilities; or

No American-built vessels to depart until documented.

(e) To cause or procure any vessel constructed in whole or in part within the United States, which has never cleared for any foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

Penalty.

Whoever violates, or attempts or conspires to violate, any of the provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not more than \$5,000, or by imprisonment for not more than five years, or both.

Forfeiture.

Any vessel, shipyard, dry dock, ship-building or ship-repairing plant or facilities, or interest therein, sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of any of the provisions of this section, and any stocks, bonds, or other securities sold or transferred, or agreed to be sold or transferred, in violation of any of such provisions, or any vessel departing in violation of the provisions of subdivision (e), shall be forfeited to the United States.

Contracts and agreements in violation of section void.

Any such sale, mortgage, lease, charter, delivery, transfer, documentation, or agreement therefor shall be void whether made within or without the United States,

and any consideration paid therefor or deposited in connection therewith shall be recoverable at the suit of the person who has paid or deposited the same, or of his successors or assigns, after the tender of such vessel, shipyard, dry dock, ship-building or ship-repairing plant or facilities, or interest therein, or of such stocks, bonds, or other securities, to the person entitled thereto, or after forfeiture thereof to the United States, unless the person to whom the consideration was paid, or in whose interest it was deposited, entered into the transaction in the honest belief that the person who paid or deposited such consideration was a citizen of the United States.

Consideration may be recovered.

SEC. 38. That all forfeitures incurred under the provisions of this act may be prosecuted in the same court, and may be disposed of in the same manner, as forfeitures incurred for offenses against the law relating to the collection of duties.

Prosecutions of forfeitures.

SEC. 39. That in any action or proceeding under the provisions of this act to enforce a forfeiture the conviction in a court of criminal jurisdiction of any person for a violation thereof with respect to the subject of the forfeiture shall constitute prima facie evidence of such violation against the person so convicted.

SEC. 40. That whenever any bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part thereof, or interest therein, is presented to any collector of the customs to be recorded, the vendee, mortgagee, or transferee shall file therewith a written declaration in such form as the board may by regulation prescribe, setting forth the facts relating to his citizenship, and such other facts as the board requires, showing that the transaction does not involve violation of any of the provisions of section nine or thirty-seven. Unless the board, before such presentation, has failed to prescribe such form, no such bill of sale, mortgage, hypothecation, or conveyance shall be valid against any person whatsoever until such declaration has been filed. Any declaration filed by or in behalf of a corporation shall be signed by the president, secretary, or treasurer thereof.

Transferee must file declaration as to citizenship, etc., with collector of customs.

Whoever knowingly makes any false statement of a material fact in any such declaration shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both.

Penalty for false statement.

SEC. 41. That whenever by said section nine or thirty-seven the approval of the board is required to render any act or transaction lawful, such approval may be accorded either absolutely or upon such conditions as the board prescribes. Whenever the approval of the board is accorded upon any condition, a statement of such condition shall be entered upon its records and incorporated in the same document or paper which notifies the applicant of such approval. A violation of such condition so incorporated shall constitute a misdemeanor and shall be punishable by fine and imprisonment in the same manner, and shall subject the vessel, stocks, bonds, or other subject matter of the application conditionally approved to forfeiture in the same manner as though the act conditionally approved had been done without the approval of the board, but the offense shall be deemed to have been committed at the time of the violation of the condition.

Board may approve transactions conditionally.

Penalty for breach of conditions.

Whenever by this act the approval of the board is required to render any act or transaction lawful, whoever knowingly makes any false statement of a material fact to the board, or to any member thereof, or to any officer, attorney, or agent thereof, for the purpose of securing such approval, shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both.

Penalty for making false statements of fact to secure board's approval.

Vessels to be considered documented until registry, enrollment, or license is canceled by board.

President to issue proclamation when emergency ends.

Title of act.

SEC. 42. That any vessel registered, enrolled, or licensed under the laws of the United States shall be deemed to continue to be documented under the laws of the United States within the meaning of subdivision (b) of section thirty-seven until such registry, enrollment, or license is surrendered with the approval of the board, the provisions of any other act of Congress to the contrary notwithstanding.

SEC. 43. That the fact that a war or emergency has ended shall, for the purposes of this act, be evidenced by a proclamation of the President.

SEC. 44. That this act may be cited as "Shipping act, 1916."

UNITED STATES SHIPPING BOARD TARIFF RULES

Filing Tariffs with U. S. S. B.

Under the United States Shipping Act, common carriers by water, when such carriers come within the scope of the Act, are required to file with the United States Shipping Board, tariffs containing maximum rates, rules and regulations applicable to freight transportation.

Publication of Tariffs

All tariffs are published by common carriers by water, or by authorized agents appointed by such carriers for the purpose of publishing tariffs, in the manner and form prescribed in

the United States Shipping Board tariff rules. These rules are reproduced on the following pages to and including page 306.

Request for Tariff

Tariffs are issued by the common carriers by water, or their agents, in compliance with the law. Copies of the Tariffs can be procured by the shipper upon request to the carriers or their Agents. In making such a request, a synopsis of the tariff should be given; that is, the application of the tariff, together with the carrier's tariff number and the United States Shipping Board number.

Regulations Covering the Publication, Posting, and Filing of Tariffs By Common Carriers By Water in Interstate Commerce

TARIFF CIRCULAR No. 1

Every common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes, on regular routes from port to port, between one State, Territory, District, or possession of the United States, and any other State, Territory, District, or possession of the United States, or between places in the same Territory, District, or possession of the United States, is required by section 18 of the Federal Shipping Act of September 7, 1916 (39 Stat. L., 728, 735), to establish, observe, and enforce just and reasonable rates, fares, charges, classifications, and tariffs, and just and reasonable regulations and practices relating thereto, and to the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matter relating to or connected with the receiving, handling, transporting, storing, or delivering of property.

Section 18 of the act further provides that every such common carrier by water in interstate commerce shall file with the Shipping Board and keep open to public inspection, in

the form and manner and within the time prescribed by the Board, the maximum rates, fares, and charges for or in connection with transportation between points on its own route; and if a through route has been established, the maximum rates, fares, and charges for or in connection with transportation between points on its own route and points on the route of any other carrier by water.

Tariffs lawfully filed with the Board on or before April 30, 1920, and not canceled, suspended, or otherwise superseded, will be treated as continued in effect until they can be reissued in accordance with these regulations. Tariffs thereafter filed with the Board shall conform to the following specifications:

1. **FORM AND STYLE OF TARIFF.**—Tariffs filed pursuant to these regulations may be issued in the form of books, pamphlets, single sheets, or loose-leaf systems, on paper of durable quality, 8 inches wide and 11 inches long and from type not smaller than 6-point full face. Mimeograph, stereotype, planograph, or other printing-press process may be used. No erasure or alteration in writing shall be made on any such tariff before posting and filing as provided by Rule 22.

2. CONTENTS OF TITLE-PAGE.—The title-page of every tariff shall disclose:

- (a) The name of the issuing carrier or agent;
- (b) The character of the rates provided, as local, joint, proportional, class, or commodity;
- (c) The territory or ports from and to which the rates apply briefly stated;
- (d) The date of issue and the effective date, *but not the date of expiration* of the tariff, except as provided in Rule 20 (b);
- (e) In the upper right-hand corner, in black-faced type, the symbol SB followed by the carrier's serial number, and immediately thereunder in smaller type, the symbol and serial numbers of the tariffs thereby canceled. If the number of canceled tariffs is so large as to render impracticable their enumeration on the title-page, the symbols and serial numbers of the canceled tariffs may follow the table of contents, but specific reference to such list shall be noted on the title-page immediately under the SB number. Tariffs shall be numbered consecutively and separate serial numbers shall be used for freight and passenger tariffs. Carriers' own tariff numbers may be shown on upper half of title-page;

(f) On the upper left-hand corner, if the tariff comprises fewer than 5 pages, the words: "No supplement to this tariff will be issued except for the cancellation hereof"; on tariffs comprising 5 but not more than 16 pages, the words: "Only one supplement to this tariff will be in effect at any time"; on tariffs comprising 17 but not more than 111 pages, the words: "Only two supplements to this tariff will be in effect at any time"; on tariffs comprising more than 111 pages, the words: "Only three supplements to this tariff will be in effect at any time." A tariff which provides for suspension and restoration of rates on closing and opening of navigation, as authorized by Rule 20, shall contain the following exception in connection with the above notations, "except as provided for in Rule _____, page _____ of this tariff";

This rule shall not apply to tariff indices provided for by Rule 8;

(g) A reference as follows to the classification and exception sheet, if any, governing the tariff: "Governed except as otherwise herein provided by _____ Classification; _____

SB No. _____, supplements thereto and reissues thereof; and by exceptions to said classification, _____ SB No. _____, supplements thereto and reissues thereof";

(h) Where the rates, fares, or charges named in a tariff are not in excess of previous corresponding rates, fares, or charges, the title-page shall bear the notation: "No advance in rates." Where the rates, fares, or charges named in a tariff are in excess of those previously filed with the Board, the title-page shall bear the notation: "All rates advanced," or "Some rates advanced," as the case may be. The title-page shall also indicate, by definite reference, the order, rule, or decision of the Board, if any, whereby such higher rates, fares, or charges shall have been authorized; and if such advances are made effective on less than 10 days' notice to the public, as provided in Rule 23, the title-page shall also contain a reference to the order, rule, or decision whereby the Board shall have waived such notice;

(i) The name, title, and address of the officer or agent by whom the tariff is issued.

3. COMPOSITION OF TARIFFS.—Tariffs in book or pamphlet form shall contain in the order named:

(a) A table of contents, with references by pages and item numbers to general headings arranged in alphabetical order and descriptive of the subject matter;

(b) An alphabetical list of the issuing carriers, including those for which a joint agent issues under power of attorney and those participating by concurrence. The form and number of such power of attorney or concurrence, in each instance, shall be shown. If the number of participating carriers does not exceed 5 their names may appear on the title-page;

(c) An alphabetical index of all articles upon which commodity rates are named, preceded by the words: "Including only such articles as are given specific rates; articles not specified will take class rates," if carrier uses classification. Items relating to the same commodity shall be grouped, as, for example: "Coal—Anthracite"; "Coal—Bituminous," etc.;

(d) An alphabetical index of all articles upon which commodity rates between points covered by the tariff are named in other tariffs, together

with the SB numbers of the tariffs in which such rates are named;

(e) An alphabetical index of the ports (including names of States, Territories, or possessions) from which the designated rates apply, and a corresponding index of the ports to which such rates apply. If there be not more than 12 points of origin or 12 points of destination the name of each may, if practicable, be specified on title-page of tariff;

(f) An explanation of reference marks and technical abbreviations used in the tariff;

(g) A list of exceptions, if any, to the classification governing the tariff and not contained in the exception sheets enumerated on the title-page;

(h) General rules and regulations governing the application of the tariff, or of the rates therein provided, the title of each such rule or regulation being shown in black-face type: *Provided*, That a special rule or regulation applying to a particular rate may be shown on the page on which the rate is named; but if not so shown, an appropriate reference to such special rule or regulation must appear by the item affected thereby;

(i) An explicit statement of the rates in cents, or in dollars and cents, per cubic foot, per 100 pounds, per barrel or other package, per ton of 2,000 pounds, or per ton of 2,240 pounds, or some other unit or basis;

(j) A brief description of the route or routes via which the rates apply, with a provision, if desired, that such rates will also apply to transportation by the lines of the participating carriers via other junction points;

(k) If basing or proportional rates are provided in the tariff, a specification of the extent and manner of their application. Tariffs designed for use in connection with published basing rates shall show the SB numbers of the tariffs in which such bases may be found.

4. TARIFF SUPPLEMENTS.—(a) Except as authorized in Rules 6-(f), 7-(b), 19-(a), and 20-(c), changes in tariffs of fewer than 5 pages may be made only by reissue. Not more than one supplement may be in effect at any time to any tariff of 5 and not more than 16 pages; not more than 2 supplements to any tariff of 17 and not more than 111 pages; and not more than 3 supplements to any tariff of more than 111

pages; and such third supplement may be issued only when the smaller of the two effective supplements contains not fewer than 10 per cent of the number of pages in the tariff.

Except as otherwise in these rules provided, supplements to tariffs of not more than 16 pages may contain not more than 4 pages; to tariffs of not more than 32 pages, not more than 6 pages; and to tariffs of more than 33 pages, not more than 25 per cent of the number of such pages, including title-page and index. A supplement of 5 or more pages shall be indexed as provided in Rule 3, and a supplement of more than 20 pages shall also contain a table of contents as provided in said Rule 3.

(b) Every tariff supplement shall contain either a list of the carriers therein participating or a statement that the participating carriers are "as shown in tariff," or "as shown in tariff, except showing alphabetically all additions to and eliminations from original list affected by supplement or by previous supplements."

Every supplement to a tariff shall be numbered consecutively as a supplement thereto and shall not be given a separate SB number. Each supplement shall specify the supplement or supplements thereby canceled, and shall also designate on its title-page the supplement or supplements containing all changes from the original tariff contemporaneously in effect. For example: "Supplement No. — to SB No. —." "Cancels supplements Nos. — and —." "Supplements Nos. — and — contain all changes from original tariff effective on date hereof." The expression "cancels conflicting portions" must not be used.

5. TARIFF AMENDMENTS.—(a) Any change in or addition to a tariff shall be known as an amendment; and, except with respect to tariffs of fewer than 5 pages or to tariffs issued in loose-leaf form, such amendments shall be printed in a supplement to the tariff, and shall refer specifically to the page or item of such tariff, or of any previous supplement, which may be thereby amended. An amended item shall always be printed in its entirety as amended, and the items in each such supplement shall be arranged in the order of the amended tariff.

(b) Amendments to tariffs issued in loose-leaf form shall be made by reprinting both pages of the leaf on which the change is made. Any

page reprinted without amendment shall bear the notation: "No change on this page." Such pages shall not be given supplement numbers, but shall be designated as "First revised page —"; "Second revised page —," etc., and shall show the SB number of the tariff in which they are comprised, together with the date of their issue, the effective date of the amendment, and the name, title, and address of the officer by whom they are issued.

6. **TARIFFS ADVANCING RATES.**—(a) Every tariff or supplement naming a rate, fare, charge, or classification in excess of a corresponding rate, fare, charge, or classification on file with the Board, shall be accompanied by, but shall not include, a sworn statement setting forth the facts relied upon as justifying the advances proposed to be made, to be considered by the Board in determining whether or not such advances shall be approved.

(b) No rate, fare, or charge in excess of a corresponding rate, fare, or charge on file with the Board shall become effective until approved by the Board and after 10 days' notice to the public as provided in Rule 22.

(c) Any person, corporation, partnership, or association may file with the Board at any time prior to the expiration of such notice a protest against the application of any such proposed advance in rates, fares, or charges; and if the Board, upon consideration of any such protest, or for any other reason, shall decline to approve any such advance in rates, fares, or charges, the issuing carrier or agent will be promptly so advised, and thereupon shall either cancel the items naming such rates, fares, or charges, as provided in Rule 7, or suspend the same pending a hearing and a decision thereon by the Board. The carrier or agent in every such case shall advise the Board by telegraph whether the items in question will be canceled or suspended, and in the latter event shall apply immediately for a hearing, which, if ordered by the Board, shall be conducted substantially in accordance with the rules of practice governing proceedings on formal complaint.

(d) When a carrier in such a case, or for any other reason, shall have suspended or deferred the operation of an item, a tariff or schedule, it shall immediately post and file as provided in Rule 22 a supplement setting forth the fact

of suspension; providing that the specified item, tariff or schedule under suspension shall not be used until further notice; and providing further that, pending such notice, the item, tariff, or schedule previously in effect shall continue to be applied. Such supplement shall also indicate by SB number or numbers the tariff or tariffs in which the items so continued in effect are to be found. Every suspension supplement shall bear the date of issue but no effective date, as suspensions are effective from the date of notice of nonapproval of the Board.

(e) When, upon subsequent approval by the Board or for any other reason, a suspension shall have been vacated, the carrier or agent issuing the suspended tariff or schedule shall immediately file with the Board and post as provided in Rule 22 a supplement setting forth briefly the facts in the premises and specifying the date on which the rate, fare, charge, classification, regulation, or practice under suspension shall become effective.

(f) Every such vacating supplement shall bear the notation: "Issued under authority of Rule 6 and in compliance with order of ——— 19——, entered by the United States Shipping Board in docket No. ———." Neither suspension nor vacating supplements shall be counted against the number of supplements permitted by Rule 4. When a suspended tariff subsequently becomes effective, such tariffs as may have been continued in effect by reason of such suspension shall be canceled as provided in Rule 7. Except by special permission of the Board, no change shall be made in a tariff or supplement which has been suspended in its entirety.

7. **CANCELLATION OF TARIFFS.**—(a) Every tariff naming a rate, fare, or charge in excess of a corresponding rate, fare, or charge lawfully on file with the Board, unless approved by the Board prior to the proposed effective date thereof, shall be either suspended as provided in Rule 6 or canceled by the posting and filing, as provided in Rule 22, of a supplement setting forth the fact of cancellation and the effective date thereof. Every such supplement shall specify the rate, charge, or regulation which thereafter shall apply, with a definite reference by SB number or numbers to the tariff or tariffs wherein such rate, charge, or regulation

may be found. For example: "Rate in ———, SB No. ———, will apply," or "Class rates will apply," or "Combination rate will apply," or "No rates in effect."

(b) If a tariff is canceled for the purpose of canceling all the rates therein provided, or when, through error or omission, a later issue fails to cancel the previous issue, and a tariff is canceled to perfect the record, the cancellation notice shall not be given a new SB number, but shall be issued as a supplement to the tariff which it cancels, even though it be a tariff of not more than 4 pages, and even though the tariff at the time may have the full number of supplements permitted by Rule 4. Cancellation of a tariff also cancels supplements thereto.

(c) Where the items in a tariff or a supplement are designated by item numbers, the cancellation of such an item shall carry the corresponding item number; for example: "Item 27-A cancels Item 27." If a canceled item or any part thereof is taken up and thereafter carried in another item of a different number the cancellation shall be carried under the original item number, and shall show the item or items under which the effective rates are to be found; and the cancellation of the item in the original tariff or supplement shall be brought forward in successive supplements, as a reissued item, so long as the cancellation is in effect.

(d) When a tariff canceling a previous tariff omits any rate, regulation, or classification carried in such canceled tariff, the new tariff shall show, as hereinabove provided, where such omitted rate, regulation, or classification may be found. If any such omission shall have effected an increase or a decrease in any rate, fare, charge or classification on file with the Board, that fact shall be indicted as provided in Rule 21; and such an increase may not lawfully be applied until approved by the Board and after 10 days' notice to the public as provided in Rule 22, unless the Board shall have expressly waived such notice.

(e) Where a tariff or a supplement conflicts with any portion of any other tariff or supplement contemporaneously in effect, the later tariff shall indicate specifically the portion of the prior tariff which is thereby canceled, and such prior tariff shall at the same time be amended, effective on the date of cancellation, as provided in Rule 5.

8. TARIFF INDEX.—(a) Every carrier subject to these regulations shall publish, post, and file, as provided in Rule 22, a complete index of the tariffs which are in effect and to which it is a party, including as to each tariff:

- (1) The SB number;
- (2) The name of the issuing line or agent;
- (3) The character of the tariff or a description of the articles thereby covered;
- (4) The ports from which the tariff applies;
- (5) The ports to which the tariff applies;
- (6) A list of all the tariffs as to which the carrier is an initial line. Commodity tariffs shall be entered alphabetically under the name of commodities or principal commodities, and tariffs applying to different groups of the same commodity shall be grouped together, as, for example: "Lumber—Hardwood"; "Lumber—Yellow Pine"; etc.

Following specific commodity tariffs shall be entered general commodity tariffs, class and commodity tariffs and class tariffs. Under each of these respective heads the application of the tariffs shall be described by alphabetical arrangement, under columns headed "From" and "To," respectively, of the ports of origin and destination.

Under the head of "Miscellaneous schedules" shall follow, in alphabetical order, a list of schedules, such as billing books, classifications, exception sheets, terminal charges, etc.

(7) A list of all tariffs as to which the carrier is a delivering line, arranged alphabetically according to the names of the issuing carriers or agents, with items arranged by commodities and classes under each of such carriers or agents, as provided in section (6).

(8) A complete list of the numbers of tariffs of its own SB series, arranged in numerical order.

(b) If a carrier should so desire, a list of its intrastate tariffs, rail-and-water tariffs, division sheets, official circulars, etc., may appear in this publication. In connection with intrastate tariffs, or rail-and-water tariffs, however, a reference mark must be used with the notation: "Rates in this tariff do not apply to interstate shipments [or to shipments transported exclusively by water]."

(c) Each index shall bear on its title-page notations as follows: "This index contains lists

of tariff publications in effect on [date of issue of index], [or which have been filed to become effective at a later date as herein noted].” If supplements to index will not be issued: “No supplement to this index will be issued;” if supplements will be issued: “This index will be reissued on or before ———, 19——, and supplements will be issued each month in which any change shall have been made.”

Each supplement to such index shall bear on its title-page the notation: “Supplements Nos. ——— and ——— contain corrections to and as in effect on [date of issue of supplement], [or which have been filed to become effective at a later date as herein noted].”

(d) The title-page of every index or supplement thereto shall show a date of issue corresponding with the date shown in the notations specified in Rule 8 (c). One index containing both freight and passenger tariffs may be filed, but if both classes of tariffs are included in one index it shall be given an SB number in both freight and passenger series, and four copies thereof shall be filed with the Board.

(e) Changes in the index shall be shown to date either by reissue each month or by supplement each month and reissue every 12 months. If supplements are used, they shall be numbered consecutively and shall show additions, changes, and cancellations made in index or in canceled supplement thereto.

9. SPECIAL CHARGES AND ALLOWANCES.—

(a) Every carrier subject to these regulations shall publish, post, and file, under proper SB numbers, separate tariffs, which shall contain in clear and specific terms all the port or terminal charges, lighterage, and demurrage; all allowances, such as arbitraries, icing, storage, elevation, diversion, or reconsignment; and all transit and other privileges, charges, and rules which may directly or indirectly increase or decrease the transportation charges, or which may increase or decrease the value of any service rendered by the carrier. Where, however, a carrier undertakes to deliver freight only within defined lighterage limits; its tariffs need not contain rates or charges covering movements beyond such lighterage limits.

(b) If such privilege is granted or charge is made in connection with the rate under which the shipment moves from point of origin, the

initial carrier's tariff containing the rate covering such movement shall also show such privilege or charge, or shall state that shipments thereunder will be entitled to such privileges and subject to such charges as may be provided in the tariffs of the connecting water carriers granting the privileges or performing the services “lawfully on file with the United States Shipping Board.”

10. CARRIERS' RULES AND REGULATIONS.—

(a) Rules and regulations governing rate schedules may be shown in separate publications issued under SB numbers and made a part of such schedules by specific reference thereto, as follows: “Governed by the rules and regulations shown in ——— SB No. ———.” Reference to other tariffs shall specify the SB numbers as well as the initials of the issuing carrier or the name of the issuing agent of such other tariffs. A publication or schedule so referred to must be lawfully on file with the United States Shipping Board.

(b) Every carrier subject to these regulations shall publish, post, and file, as provided in Rule 22, general rules and regulations governing the transportation of baggage (including excess-baggage rates except when shown in tariff in connection with fares), stopover privileges, extensions of time on limited tickets because of illness, quarantine, or other cause, and the honoring of tickets not properly validated. If such general rules are filed in separate tariffs of the individual carriers a joint tariff may refer to them by SB numbers, or “as lawfully on file with the United States Shipping Board.” An individual carrier filing such rules in a separate tariff shall refer thereto by SB number.

(c) No rule or regulation shall in any way authorize the substitution for any rate or fare named in the tariff of any rate or fare found in any other tariff or made up by any combination or plan other than that clearly stated in the tariff of which the rate or regulation is a part.

11. RECONSIGNMENT OF TRAFFIC. — Under proper regulations, carriers may permit a shipper to forward a shipment to a certain point; thereafter, while the shipment is in transit or after it has arrived at the destination to which it was originally consigned, to change the destination or the consignee thereof, and to forward the traffic under the through rate

applying from the point of origin to final destination.

The term "reconsignment," unless otherwise qualified in the tariff, shall be held to include changes in destination, routing, or consignee; and any carrier desiring to distinguish between such changes in original routing instructions shall state the conditions under which each character of reconsignment will be permitted, together with the charges, respectively, therefor; and such regulations shall be so clearly defined as not to be misunderstood.

12. DEFINITION OF INCLUSIVE TERMS.—The terms "common points," "lake ports," and similar inclusive expressions, when used in any tariff, shall be accompanied by a complete list of the points therein embraced, or by a specific reference to such a list elsewhere in the tariff or in some other tariff on file with the Board.

The terms "grain products," "forest products," "petroleum and its products," "cottonseed products," or similar inclusive terms, when used in any tariff, shall be accompanied by a complete list of the articles included in and covered by such terms, or by a specific reference to such a list elsewhere in the tariff or in some other tariff on file with the Board.

13. CLASSIFICATION OF HIGH EXPLOSIVES.—(a) Freight classifications may not properly provide that high explosives will be "taken only by special agreement," but if it is impracticable to classify such traffic the classification may provide that high explosives will be accepted for transportation "subject to the regulations and rates provided in the tariffs of the individual carriers," and each carrier concurring in such classification shall provide in its tariff rates and regulations governing the transportation of high explosives. Such tariffs and classifications shall specify their application to shipments properly labeled, billed, and invoiced as provided in sections 232 and 235 of the Penal Code, as approved March 4, 1909.

(b) Freight tariffs governed by classifications of which rules and regulations governing the transportation of explosives and other dangerous articles are made a part need not contain a copy of such rules and regulations but must state that the rates are governed thereby.

14. ROUND-TRIP AND EXCURSION FARES.—

(a) Tariffs containing round-trip or excursion

fares, and instructions governing the sale and use of tickets thereunder, shall name all carriers participating therein, or shall refer by SB numbers to the tariffs on which such excursion fares are based, with a notation that the carriers parties to such tariffs are likewise parties; under the powers of attorney and concurrences therein shown, to the excursion-fare tariff. Such tariffs shall also contain a provision that tickets may not be sold thereunder via the line of any carrier not therein specified as a party thereto or to the tariff or tariffs therein referred to.

(b) Tariffs naming fares for excursions may state such fares in such terms as a "One first-class fare for the round trip," "One first-class fare and a third for the round trip," "One first-class fare plus \$—— for the round trip," but every such tariff shall give specific reference by SB number or numbers to the tariff or tariffs containing such first-class fares.

(c) If side trips for passengers at free or reduced rates are granted to holders of through tickets, the tariff under which the through ticket is sold shall show the side trips that will be furnished, or shall state that side trips will be furnished as per the tariffs of the individual carriers "lawfully on file with the United States Shipping Board."

(d) Tariffs containing fares which include hotel accommodations or admission to entertainments shall show separately the carrier's portion of such fares, and such portions of fares shall be alike to all, regardless of whether or not the passenger may engage such additional service.

15. ISSUANCE BY AGENT UNDER POWER OF ATTORNEY.—(a) Any carrier subject to these regulations may lawfully authorize an agent to publish, post, and file its tariffs, classifications, exception sheets, or supplements thereto, the form of authorization in such cases provided being as follows:

Form SB A No.

KNOW ALL MEN BY THESE PRESENTS:

That the.....Company has made, constituted, and appointed, and by these presents does make, constitute and appoint....., of, its true and lawful attorney and agent, for and in its name, place, and stead [or for it jointly with other carriers] to file tariffs, classifications, and exception sheets and supplements

thereto, as required by regulations established by the United States Shipping Board, pursuant to the provisions of section 18 of the Federal Shipping Act of September 7, 1916, for the period of time, the traffic, and the routes herein designated, as follows:

.....

.....

And the said.....Company hereby gives and grants unto its said attorney and agent full power and authority to do and perform all and every act and thing hereinabove specified, as fully and to all intents and purposes as if the same were done and performed by the said company, hereby ratifying and confirming all that its said agent and attorney may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

In witness whereof the said Company has caused these presents to be signed in its name by its.....President, and to be duly attested under its corporate seal by its Secretary at, in the State of, this.....day of, 19....

The.....Company,
By.....

Its.....President.

Attest:,
[SEAL] Secretary.

The carrier issuing this form shall file the original with the Board and shall furnish a duplicate thereof to the agent to whom authority is thereby given. No such authority may be conferred upon any association or bureau, and no such power of attorney may lawfully contain authority to delegate to another any of the powers thereby conferred. Any power of attorney may be revoked by the issuing carrier upon 30 days' notice to the Board, or may at any time be transferred to another agent by filing with the Board a notice of such transfer, accompanied by a full-form authorization for the newly constituted agent.

(b) Two or more carriers may designate the same agent, but each of such carriers must file with the Board a several power of attorney as hereinabove provided; and the concurrences of every other carrier participating in any tariff,

classification, or supplement filed by any such agent shall be on file with the Board or shall accompany the tariff as provided in Rule 16 (a).

16. CONCURRENCES.—(a) Any carrier subject to these regulations may lawfully adopt as its own any tariff lawfully filed by or on behalf of any other carrier, by filing with the Board and posting, as provided in Rule 22, a concurrence in form as follows:

Form SB C 1 No.

The.....Company,
General Freight [or Passenger] Department,

.....,
....., 19....

TO THE DIVISION OF REGULATION,
UNITED STATES SHIPPING BOARD,
Washington, D. C.

This is to certify that the.....Company assents to and concurs in the publication and filing of the schedule hereinafter described, together with any supplement thereto or reissue thereof which the named issuing carrier or its agent may make and file; and hereby makes itself a party thereto and bound thereby, until this authority shall have been revoked by formal notice of revocation filed with the United States Shipping Board and served upon the carrier to which this concurrence is given.

Title and number.....
Issued by the.....Company, by....., its.....
Date of issue....., 19.... Date effective....., 19....

[SEAL.] The.....Company,
By.....
Its.....

Carriers executing this form shall file the original with the Board, and shall furnish a copy thereof to the carrier or agent to whom the concurrence is issued.

(b) When two or more carriers shall have appointed a joint agent for the publication and filing of tariffs and of supplements thereto, concurrence in tariffs issued by such agent shall be in form as follows:

Form SB C 2 No.

The.....Company,
General Freight [or Passenger] Department,

.....,
....., 19....

TO THE DIVISION OF REGULATION,
UNITED STATES SHIPPING BOARD,
Washington, D. C.

This is to certify that the.....Company assents to and concurs in the publication and filing of any rate, fare, or schedule, or any supplement thereto which the [carriers from which agent holds power of attorney], or either or any of them, may publish and file through....., of....., their agent and attorney, and in which the said.....Company may be named as a participant; and hereby makes itself a party to and bound thereby in so far as such schedule shall contain any rate applying via its lines [(or "to but not from points on its lines"); (or "to and from points on its lines"); (or "on"); (or "between.....and....."); (or "from.....to....."); (or "from.....to points on or reached via its line"); (or "from points on or via its line to.....")]] until this authority shall have been revoked by formal notice of revocation filed with the United States Shipping Board and served upon the carrier to which this concurrence is given or to its agent and attorney herein designated.

[SEAL.] The.....Company,
By.....
Its.....

Carriers issuing this form shall file the original with the Board and shall furnish a copy thereof to each of the carriers named in the concurrence, or to the joint agent of such carriers if each of them shall have given him power of attorney to receive concurrences.

(c) Concurrence may be given by any carrier to embrace all tariffs issued by or on behalf of any other carrier or carriers in which the concurring carrier may be shown as a participating, intermediate, or delivering line, the form in such cases provided being as follows:

Form SB C 3 No.——.

The.....Company,
General Freight [or Passenger] Department,
....., 19.....

TO THE DIVISION OF REGULATION,
UNITED STATES SHIPPING BOARD,
Washington, D. C.

This is to certify that the.....Company assents to and concurs in the publication and

filing of any rate, fare, or schedule, or any supplement thereto, which.....Company, or any agent of said company, may make and file, in which the said.....Company may be named as a participant; and hereby makes itself a party to and bound thereby in so far as such schedule contains rates applying via its lines [(or "to but not from points on its line"); (or "to and from points on its line"); (or "on"); (or "between.....and....."); (or "from.....to....."); (or "from.....to points on or reached via its lines"); (or "from points on or via its lines to.....")]] until this authority shall have been revoked by formal notice of revocation filed with the United States Shipping Board and served upon the carrier to which this concurrence is given.

[SEAL.] The.....Company,
By.....
Its.....

Carriers issuing this form shall file the original with the Board and shall furnish a copy thereof to the carrier to which the concurrence is given.

(d) Subsidiary or small lines which may not desire to issue concurrences or tariffs may give to the parent company or to some other carrier power of attorney to file or concur in tariffs; and the carrier holding such authority may in one instrument give and receive concurrences for itself and for the other lines for which it acts. Such subsidiary or small lines, however, must be named in concurrences so given. In giving power of attorney to concur in tariffs, the form prescribed in Rule 15 shall be modified by striking out from line 5 the word "file" and substituting therefor the words "to give and receive concurrences in."

(e) Carriers shall number powers of attorney and concurrences consecutively from No. 1, in each series, keeping such numbers separate and distinct from SB numbers of tariffs. Concurrences shall be given to the carriers therein named, and authority so granted to a carrier may be by it delegated to any lawfully constituted agent. Separate concurrences shall be given for freight and passenger tariffs.

(f) A concurrence may be revoked by filing with the Board a formal notice of revocation and serving a copy thereof upon the carrier or upon each of the carriers named in such concurrence. Notice of revocation must specify the date upon

which the revocation is to be effective, which must be not less than 60 days subsequent to such notice. A corresponding revision of tariffs shall be made in the next succeeding supplement to or reissue thereof and, if necessary, a supplement or reissue shall be made for the purpose of making such change lawfully effective upon the effective date provided in the notice of revocation.

(g) A change in a tariff is effective only when the tariff as filed and posted is changed. If, therefore, a carrier revoking a concurrence neglects to change its tariffs as herein provided, it shall be liable to other carriers for any difference in charges accruing under the tariff as it is and as it would have been if corrected in accordance with the revocation of concurrence. If the tariff is published by a joint agent, the provisions hereof shall apply to each of the carriers principal to whom traffic is tendered as an initial line.

(h) In giving concurrences, care must be taken to preclude the possibility of two or more agents or carriers naming conflicting rates or rules.

17. TRANSFER OF POWER OF ATTORNEY.—When an agent filing tariffs under power of attorney is succeeded by another agent, and when the same carriers for which the former agent acted will be served by the newly constituted agent, the consolidated concurrence forms on file in favor of the former agent need not be reissued, but may be transferred to the new agent by issuing and filing with respect to each of such concurrences a transfer notice as follows:

Transfer Notice to SB C1 [2 or 3], No.

The Company,

General Freight [or *Passenger*] Department,

.....,

....., 19....

TO THE DIVISION OF REGULATION,

UNITED STATES SHIPPING BOARD,

Washington, D. C.

Effective....., 19...., this company's concurrence, Form SB C 1 [2 or 3], naming [former agent] as agent for carriers therein listed, will authorize participation by this company in

tariff publications issued and filed on behalf of the same carriers by [successor agent].

The Company,

By.....,

Its.....

This form shall be filed with the Board not later than the effective date therein provided and shall be signed by the proper traffic officer of the issuing company, but shall bear no serial number other than that of the concurrence form to which it may apply.

18. FORM OF POWER OF ATTORNEY AND CONCURRENCE.—(a) Powers of attorney, concurrences, and transfer notices shall be on paper of durable quality, 8 inches wide and 11 inches long. The series and serial numbers of each power of attorney or concurrence shall be shown in the upper left-hand corner of the first page, and immediately thereunder shall appear the form number, or numbers of powers of attorney or concurrences thereby canceled. Each power of attorney or concurrence shall show the post-office address of the issuing officer or agent.

(b) When a series of joint concurrences, issued by the same traffic officer on behalf of two or more carriers, is maintained, each concurrence in such series shall be issued on behalf of all the carriers for whom such officer acts. Otherwise separate files of concurrences shall be maintained, one for each carrier, certificates in each series thereof being numbered consecutively as hereinabove provided.

19. ADOPTION OF TARIFFS OF PREDECESSOR COMPANIES.—(a) When a water line is transferred from the ownership or operating control of one carrier to that of another, or when the name of such operating carrier is changed, its tariffs shall be withdrawn by it and adopted by the successor company. The carriers in such cases shall unite in the issuance of common supplements to the tariffs on file with the Board, on the one hand withdrawing and on the other hand adopting and establishing such tariffs and effective supplements thereto. Such common supplements shall be executed jointly by the traffic officers of both companies, and shall be numbered consecutively as supplements to the tariffs to which they are directed, even though such tariffs may comprise fewer than five pages; and such common supplements shall not be counted against the number of supplements

permitted under Rule 4. Amendments to such tariffs shall thereafter be filed in consecutively numbered supplements until tariffs are reissued. New tariffs reissuing or superseding such tariffs shall be numbered in the SB series of the successor carrier.

(b) The successor company in such cases shall post and file, as provided in Rule 22, an adoption notice as follows:

The.....Company hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, all tariffs, rules, notices, concurrences, traffic agreements, divisions, powers of attorney, and other instruments whatsoever filed with the United States Shipping Board by the.....Company prior to....., 19.... By this adoption the said.....Company also ratifies all supplements or amendments to any of the above-named publications which have heretofore been filed with said Board.

The.....Company,

By.....,

Its.....

A similar adoption notice must be filed by a receiver upon assuming control of a water carrier's lines.

20. SUSPENSION AND RESTORATION OF RATES UPON CLOSING AND OPENING OF NAVIGATION.—

(a) Tariffs naming rates applicable via routes closed to navigation during a portion of the year, and which do not become effective and expire by specified expiration within the same season of navigation, shall contain the following notation on the title-page thereof:

The rates named herein are subject to suspension at the close of navigation and restoration on the opening of navigation, on notice as provided in Rule.....on page.....of this tariff.

The rules governing the tariff shall provide as follows:

The rates named in this tariff and in supplements thereto shall be effective only during the season of navigation of the.....Company. A supplement announcing the close of navigation and the suspension of rates named in this tariff and its effective supplements will be filed with the United States Shipping Board, and will be posted at points from which the rates apply not less than three days in advance of the

date upon which the rates will be suspended from ports of original shipment.

In anticipation of opening of navigation, restoration of rates contained in this tariff and in effective supplements thereto which were in force on the date the rates were last suspended, or which have subsequently been made effective, will be announced by supplement to this tariff, which will be filed with the United States Shipping Board, be posted at points from which the rates apply, and become effective not less than one day thereafter.

The aforesaid suspension supplement may contain a provision that the rates suspended will be revived on the opening of navigation, specifying a date therefor; but the carrier may, prior to the opening of navigation and on one day's notice, file an additional supplement naming a different date for the restoration of said suspended rates.

(b) In instances where definite dates of closing and opening of navigation may be determined for each season of navigation, the following rule may be incorporated in the tariff: "The rates named in this tariff and in supplements thereto are effective only during the season of navigation of.....Company from.....to.....inclusive."

(c) Supplements announcing suspension or restoration of rates will not be counted against the number of supplements permitted to the tariff under Rule 4.

21. INDICATION OF ADVANCES OR REDUCTIONS in Rates.—Rates, fares, charges, and classifications in excess of previous corresponding rates, fares, charges, and classifications shall be shown in black-face type; while reductions in such rates, fares, charges, and classifications shall be indicated by italics: *Provided*, That, in lieu of black-face type and italics, such advances or reductions may be shown by symbols used consistently throughout the schedule.

22. PUBLICATION, POSTING, AND FILING OF TARIFFS.—(a) Every carrier subject to the Federal Shipping Act, which files freight or passenger tariffs, shall furnish its agent or representative at every wharf, dock, warehouse, or office at which passengers or freight are received for transportation and at which a station agent, freight agent, or ticket agent is employed, all schedules which contain rates and

fares applying from that point or terminal or other charges applicable at that point, including schedules issued by that carrier or by its authorized agent and those in which it has concurred; such agent or representative shall also be provided with all changes in, cancellations of, additions to, and reissues of such publications in ample time to give proper notice to the public. Such agent or representative shall be provided with facilities for keeping, and shall be required to keep, a complete file of such schedules. Such file shall be kept open and accessible to the public during ordinary business hours on business days. He shall also be instructed and required to give any information contained in such schedules, to lend assistance to seekers for information therefrom, and to accord inquirers opportunity to examine any of said schedules without requiring or requesting the inquirer to assign any reason therefor. Each carrier shall also provide, and each of such agents or representatives shall also keep on file, copies of current SB issues of the indices of the tariffs of that carrier.

Each carrier shall cause to be posted and kept posted in two conspicuous places in every station, waiting room, warehouse, or office at which schedules are so placed in custody of an agent or representative, notices printed in large type and reading as follows:

Complete duplicate file of this company's tariffs is located at.....in the city of.....
The rate and fare schedules applying from or at this point and indices of this company's tariffs are on file in this office and may be inspected by any person upon application and without the assignment of any reason.

At exclusive freight wharves or warehouses and at exclusive passenger wharves or offices carriers may place and keep on file only the freight or passenger schedules, respectively.

(b) Every such tariff or supplement will be examined promptly by the Board, and if the proposed advances shall appear to be just and reasonable, such tariff or supplement will be approved and thereafter shall become effective as indicated on the title-page, without notice of approval by the Board: *Provided*, That approval in such cases shall not be held to constitute a determination by the Board that any rate, fare, charge, classification, regulation, or

practice named in such tariff or supplement is just, reasonable, or nondiscriminatory; and every such rate, fare, charge, classification, regulation, or practice thereafter may be made the subject of a formal complaint to the same extent and in the same manner as any other rate, fare, charge, classification, regulation, or practice not so approved by the Board.

(c) Every tariff or supplement subject to these regulations, other than those providing for advances in existing rates, fares, charges, or classifications, shall be posted and filed as hereinabove provided not later than the proposed effective date thereof, and thereafter shall become effective as indicated on the title-page without notice or approval by the Board.

(d) Whenever a carrier subject to these regulations, in order to drive out or otherwise injure a competitive carrier by water, shall have reduced below a fair and remunerative basis any rate applying to the transportation of freight to or from a competitive point, such rate shall not thereafter be increased until the Board after hearing shall have found that such proposed increase shall rest upon a changed condition other than the elimination of water competition. In every such case the carrier or carriers, before publishing such increased rate, shall file with the Board a petition under oath setting forth clearly the facts and circumstances in connection with the reduction of the previous corresponding rate, as well as the facts other than the elimination of water competition relied upon as justifying the advance proposed to be made. The Board in such cases will order a hearing, which shall be conducted in accordance with the rules of practice governing proceedings on formal complaint; and if after such hearing the Board shall grant such application such increased rate may be posted and filed as hereinabove provided with respect to other increased rates.

(e) Every rate, charge, or regulation prescribed by the Board in any decision and order, after hearing upon formal complaint, shall be published, posted, and filed as hereinabove provided, and immediate notice shall be sent to the Board that its order in Docket No. has been complied with in item....., page.....of....., tariff SB No., or supplement.....to....., tariff SB No.

(f) The granting of authority to issue tariffs under powers of attorney or concurrences shall not relieve the carrier conferring such authority from the necessity of complying with the foregoing requirements governing the posting and filing of tariffs, but such carrier may use for that purpose tariffs so issued under such authority.

(g) The filing of a tariff or supplement by any carrier shall constitute a filing by all other carriers lawfully concurring therein. The agent or a carrier issuing a joint tariff publication shall at once send copies thereof to each and every carrier named as a participant therein.

(h) Two copies of tariff publications shall be filed with the Board, and shall be delivered in person or forwarded by mail addressed to the Division of Regulation, United States Shipping Board, Washington, D. C. Every tariff or supplement subject to these regulations shall be so delivered to the Board free from all charges or claims for postage and not later than the effective date indicated on the title-page thereof; and every such tariff or supplement naming a rate, fare, charge, or classification in excess of a corresponding rate, fare, charge, or classification lawfully on file with the Board shall be so delivered not later than 10 days prior to such effective date, unless the Board shall have expressly waived such notice. In computing such period of 10 days no consideration shall be given to notices by telegraph; and tariffs and supplements issued under special permission of the Board, upon less than statutory notice, shall show a literal compliance with the conditions of such authorization.

The title-page of every tariff or supplement naming increased rates, fares, charges, or classifications shall show full 10 days' notice, or shall contain a specific reference to the order, rule, or decision whereby the Board shall have authorized a waiver of such notice.

(i) When a tariff is rejected by the Board for noncompliance with the foregoing requirements or for any other reason, such tariff shall not thereafter be referred to as *canceled* or *amended*, but the publication issued in lieu thereof shall bear the notation: "In lieu of..... SB No.....rejected by the United States Shipping Board." The SB number of a rejected tariff shall not in any case be used again.

23. AMENDMENT OF TARIFF ON LESS THAN STATUTORY NOTICE.—The Board in exceptional cases and for good cause shown will permit tariffs naming increased rates, fares, charges, or classifications to become effective on less than 10 days' notice as provided in Rule 22. Applications for authority so to increase a rate, fare, charge, or classification on file with the Board shall be typewritten or printed on paper 8 inches wide and 11 inches long, and shall be in form substantially as follows:

....., 19.....

THE DIVISION OF REGULATION,
UNITED STATES SHIPPING BOARD,
Washington, D. C.

The..... Company, by....., its....., hereby respectfully petitions the United States Shipping Board for authority under section 18 of the Federal shipping act of September 7, 1916, to put in force the following rates [*or fares*] to become effective.....days after the filing thereof with said board.

Your petitioner further represents that the said rates [*or fares*] above mentioned will be published in Supplement No.to Tariff SB No....., [*or in consecutively numbered supplement to Tariff SB No.....or in reissue of Tariff SB No.....*]; and will supersede the rates [*or fares*] on like traffic from and to the points above named as contained in Tariff SB No..... [*or supplement*] on file with the Board. The foregoing request is based upon the following facts and circumstances:

[*State fully all the facts and circumstances relied upon as justifying the application, and if based upon rates in effect via other lines, specific reference should be made to the SB number of the tariff or tariffs in which such charges may be found.*]

The.....COMPANY,

By.....

Subscribed and sworn to before me this..... day of....., 19.....

.....,
NOTARY PUBLIC

Such applications shall be sent by mail and not by telegraph, as verified applications only will be considered.

24. NO WITHDRAWAL OF FIELD TARIFFS.—The Board will not surrender or permit to be withdrawn any tariff publication properly filed with it, except as provided in Rule 19, or unless such publication shall have been thereafter rejected because of illegality or noncompliance with the foregoing regulations.

25. LETTERS OF TRANSMITTAL.—All tariffs filed with the Board shall be accompanied by a letter of transmittal to the following effect:

(Name of carrier in full.)

(General Freight or Passenger Department.)

Note.—If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate and one copy will be stamped and returned.

Advice No. Date

TO THE DIVISION OF REGULATION,
UNITED STATES SHIPPING BOARD,
Washington, D. C.

Accompanying schedule is sent you for filing in compliance with the requirements of the Federal Shipping Act, issued by, and bearing

SB No.

Supp. No. to SB No.

Effective, 19

and is concurred in by all carriers named therein as participants under continuing concurrences or authorizations now on file with the Board, except the following-named carriers, whose concurrences are attached hereto.

(Signature of filing agent.)

THE MERCHANT MARINE ACT, 1920

(APPROVED JUNE 5, 1920)

AN ACT To provide for the promotion and maintenance of the American merchant marine, to repeal certain emergency legislation, and provide for the disposition, regulation, and use of property acquired thereunder, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, in so far as may not be inconsistent with the express provisions of this Act, the United States Shipping Board shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained.

SECTION. 2. (a) That the following Acts and parts of Acts are hereby repealed, subject to the limitations and exceptions hereinafter, in this Act, provided:

(1) The emergency shipping fund provisions of the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the Military and Naval Establishments on account of war expenses for the fiscal year ending June 30, 1917, and for other purposes," approved June 15, 1917, as amended by the Act entitled "An Act to amend the emergency shipping fund provisions of the Urgent Deficiency Appropriation Act, approved June 15, 1917, so as to empower the President and his designated agents to take over certain transportation systems for the transportation of shipyard and plant employees, and for other purposes," approved April 22, 1918, and as further amended by the Act entitled "An Act making appropriation to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, on account of war expenses, and for other purposes," approved November 4, 1918;

(2) Section 3 of such Act of April 22, 1918;

(3) The paragraphs numbered 2 and 3 under the heading "Emergency shipping fund" in such Act of November 4, 1918; and

(4) The Act entitled "An Act to confer on the President power to prescribe charter rates and freight rates and to requisition vessels, and for other purposes," approved July 18, 1918.

(5) Sections 5, 7, and 8, Shipping Act, 1916.

(b) The repeal of such Acts or parts of Acts is subject to the following limitations:

(1) All contracts or agreements lawfully entered into before the passage of this Act under any such Act or part of Act shall be assumed and carried out by the United States Shipping Board, hereinafter called "the board."

(2) All rights, interests, or remedies accruing or to accrue as a result of any such contract or agreement or of any action taken in pursuance of any such Act or parts of Acts shall be in all respects as valid, and may be exercised and enforced in like manner, subject to the provisions of subdivision (c) of this section, as if this Act had not been passed.

(3) The repeal shall not have the effect of extinguishing any penalty incurred under such Acts or parts of Acts, but such Acts or parts of Acts shall remain in force for the purpose of sustaining a prosecution for enforcement of the penalty therein provided for the violation thereof.

(4) The board shall have full power and authority to complete or conclude any construction work begun in accordance with the provisions of such Acts or parts of Acts, if, in the opinion of the board, the completion or conclusion thereof is for the best interests of the United States.

(c) As soon as practicable after the passage of this Act the board shall adjust, settle, and liquidate all matters arising out of or incident to the exercise by or through the President of any of the

powers or duties conferred or imposed upon the President by any such Act or parts of Acts; and for this purpose the board instead of the President, shall have and exercise any of such powers and duties relating to the determination and payment of just compensation: *Provided*, That any person dissatisfied with any decision of the board shall have the same right to sue the United States as he would have had if the decision had been made by the President of the United States under the Acts hereby repealed.

SEC. 3. (a) That section 3 of the "Shipping Act, 1916," is amended to read as follows:

"SEC. 3. That a board is hereby created to be known as the United States Shipping Board and hereinafter referred to as the board. The board shall be composed of seven commissioners, to be appointed by the President, by and with the advice and consent of the Senate; and the President shall designate the member to act as chairman of the board, and the board may elect one of its members as vice chairman. Such commissioners shall be appointed as soon as practicable after the enactment of this Act and shall continue in office two for a term of one year, and the remaining five for terms of two, three, four, five, and six years, respectively, from the date of their appointment, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds.

"The commissioners shall be appointed with due regard to their fitness for the efficient discharge of the duties imposed on them by this Act, and two shall be appointed from the States touching the Pacific Ocean, two from the States touching the Atlantic Ocean, one from the States touching the Gulf of Mexico, one from the States touching the Great Lakes and one from the interior, but not more than one shall be appointed from the same State. Not more than four of the commissioners shall be appointed from the same political party. A vacancy in the board shall be filled in the same manner as the original appointments. No commissioner shall take any part in the consideration or decision of any claim or particular controversy in which he has a pecuniary interest.

"Each commissioner shall devote his time to the duties of his office, and shall not be in the employ of or hold any official relation to any common carrier or other person subject to this Act, nor while holding such office acquire any stock or bonds thereof or become pecuniarily interested in any such carrier.

"The duties of the board may be so divided that under its supervision the directorship of various activities may be assigned to one or more commissioners. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the board shall not impair the right of the remaining members of the board to exercise all its powers. The board shall have an official seal, which shall be judicially noticed.

"The board may adopt rules and regulations in regard to its procedure and the conduct of its business. The board may employ within the limits of appropriations made therefor by Congress such attorneys as it finds necessary for proper legal service to the board in the conduct of its work, or for proper representation of the public interest in investigations made by it or proceedings pending before it whether at the board's own instance or upon complaint, or to appear for or represent the board in any case in court or other tribunal. The board shall have such other rights and perform such other duties not inconsistent with the Merchant Marine Act, 1920, as are conferred by existing law upon the board in existence at the time this section as amended takes effect.

"The commissioners in office at the time this section as amended takes effect shall hold office until all the commissioners provided for in this section as amended are appointed and qualify."

(b) The first sentence of section 4 of the "Shipping Act, 1916," is amended to read as follows:

"SEC. 4. That each member of the board shall receive a salary of \$12,000 per annum."

SEC. 4. That all vessels and other property or interests of whatsoever kind, including vessels or property in course of construction or contracted for, acquired by the President through any agencies whatsoever in pursuance of authority conferred by the Acts or parts of Acts repealed by section 2 of this Act, or in pursuance of the joint resolution entitled "Joint resolution authorizing the President to take over for the United States the possession and title of any vessel within its jurisdiction, which at the time of coming therein was owned in whole or in part by any corporation,

citizen, or subject of any nation with which the United States may be at war, or was under register of any such nation, and for other purposes," approved May 12, 1917, with the exception of vessels and property the use of which is in the opinion of the President required by any other branch of the Government service of the United States, are hereby transferred to the board: *Provided*, That all vessels in the military and naval service of the United States, including the vessels assigned to river and harbor work, inland waterways, or vessels for such needs in the course of construction or under contract by the War Department, shall be exempt from the provisions of this Act.

SEC. 5. That in order to accomplish the declared purposes of this Act, and to carry out the policy declared in section 1 hereof, the board is authorized and directed to sell, as soon as practicable, consistent with good business methods and the objects and purposes to be attained by this Act, at public or private competitive sale after appraisalment and due advertisement, to persons who are citizens of the United States, except as provided in section 6 of this Act, all of the vessels referred to in section 4 of this Act or otherwise acquired by the board. Such sale shall be made at such prices and on such terms and conditions as the board may prescribe, but the completion of the payment of the purchase price and interest shall not be deferred more than fifteen years after the making of the contract of sale. The board in fixing or accepting the sale price of such vessels shall take into consideration the prevailing domestic and foreign market price of, the available supply of, and the demand for vessels, existing freight rates and prospects of their maintenance, the cost of constructing vessels of similar types under prevailing conditions, as well as the cost of the construction or purchase price of the vessels to be sold, and any other facts or conditions that would influence a prudent, solvent business man in the sale of similar vessels or property which he is not forced to sell. All sales made under the authority of this Act shall be subject to the limitations and restrictions of section 9 of the "Shipping Act, 1916," as amended.

SEC. 6. That the board is authorized and empowered to sell to aliens, at such prices and on such terms and conditions as it may determine, not inconsistent with the provisions of section 5 (except that completion of the payment of the purchase price and interest shall not be deferred more than ten years after the making of the contract of sale), such vessels as it shall, after careful investigation, deem unnecessary to the promotion and maintenance of an efficient American merchant marine; but no such sale shall be made unless the board, after diligent effort, has been unable to sell, in accordance with the terms and conditions of section 5, such vessels to persons citizens of the United States, and has, upon an affirmative vote of not less than five of its members, spread upon the minutes of the board, determined to make such sale; and it shall make as a part of its records a full statement of its reasons for making such sale. Deferred payments of purchase price of vessels under this section shall bear interest at the rate of not less than $5\frac{1}{2}$ per centum per annum, payable semiannually.

SEC. 7. That the board is authorized and directed to investigate and determine as promptly as possible after the enactment of this Act and from time to time thereafter what steamship lines should be established and put in operation from ports in the United States or any Territory, District, or possession thereof to such world and domestic markets as in its judgment are desirable for the promotion, development, expansion, and maintenance of the foreign and coastwise trade of the United States and an adequate postal service, and to determine the type, size, speed, and other requirements of the vessels to be employed upon such lines and the frequency and regularity of their sailings, with a view to furnishing adequate, regular, certain, and permanent service. The board is authorized to sell, and if a satisfactory sale can not be made, to charter such of the vessels referred to in section 4 of this Act or otherwise acquired by the board, as will meet these requirements to responsible persons who are citizens of the United States who agree to establish and maintain such lines upon such terms of payment and other conditions as the board may deem just and necessary to secure and maintain the service desired; and if any such steamship line is deemed desirable and necessary, and if no such citizen can be secured to supply such service by the purchase or charter of vessels on terms satisfactory to the board, the board shall operate vessels on such line until the business is developed so that such vessels may be sold on satisfactory terms and the service maintained, or unless it shall appear within a reasonable time that such line can not be made self-

sustaining. The Postmaster General is authorized, notwithstanding the Act entitled "An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891, to contract for the carrying of the mails over such lines at such price as may be agreed upon by the board and the Postmaster General: *Provided*, That preference in the sale or assignment of vessels for operation on such steamship lines shall be given to persons who are citizens of the United States who have the support, financial and otherwise, of the domestic communities primarily interested in such lines if the board is satisfied of the ability of such persons to maintain the service desired and proposed to be maintained, or to persons who are citizens of the United States who may then be maintaining a service from the port of the United States to or in the general direction of the world market port to which the board has determined that such service should be established: *Provided further*, That where steamship lines and regular service have been established and are being maintained by ships of the board at the time of the enactment of this Act, such lines and service shall be maintained by the board until, in the opinion of the board, the maintenance thereof is unbusinesslike and against the public interests: *And provided further*, That whenever the board shall determine, as provided in this Act, that trade conditions warrant the establishment of a service or additional service under Government administration where a service is already being given by persons, citizens of the United States, the rates and charges for such Government service shall not be less than the cost thereof, including a proper interest and depreciation charge on the value of Government vessels and equipment employed therein.

SEC. 8. That it shall be the duty of the board, in cooperation with the Secretary of War, with the object to promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which it has jurisdiction, to investigate territorial regions and zones tributary to such ports, taking into consideration the economies of transportation by rail, water and highway and the natural direction of the flow of commerce; to investigate the causes of the congestion of commerce at ports and the remedies applicable thereto; to investigate the subject of water terminals, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, with a view to devising and suggesting the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities regarding the appropriate location and plan of construction of wharves, piers, and water terminals; to investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and to investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight which would naturally pass through such ports; *Provided*, That if after such investigation the board shall be of the opinion that rates, charges, rules, or regulations of common carriers by rail subject to the jurisdiction of the Interstate Commerce Commission are detrimental to the declared object of this section, or that new rates, charges, rules, or regulations, new or additional port terminal facilities, or affirmative action on the part of such common carriers by rail is necessary to promote the objects of this section, the board may submit its findings to the Interstate Commerce Commission for such action as such commission may consider proper under existing law.

SEC. 9. That if the terms and conditions of any sale of a vessel made under the provisions of this Act include deferred payments of the purchase price, the board shall require, as part of such terms and conditions, that the purchaser of the vessel shall keep the same insured (a) against loss or damage by fire, and against marine risks and disasters, and war and other risks if the board so specifies, with such insurance companies, associations or underwriters, and under such forms of policies, and to such an amount, as the board may prescribe or approve; and (b) by protection and indemnity insurance with such insurance companies, associations, or underwriters and under such forms of policies, and to such an amount as the board may prescribe or approve. The insurance required to be carried under this section shall be made payable to the board and/or to the parties as interest may appear. The board is authorized to enter into any agreement that it deems wise in respect to the payment and/or the guarantee of premiums of insurance.

SEC. 10. That the board may create out of net revenue from operations and sales, and maintain and administer, a separate insurance fund, which it may use to insure, in whole or in part, against all hazards commonly covered by insurance policies in such cases, any interest of the United States (1) in any vessel, either constructed or in process of construction, and (2) in any plants or materials heretofore or hereafter acquired by the board or hereby transferred to the board.

SEC. 11. That during a period of five years from the enactment of this Act the board may annually set aside out of the revenues from sales and operations a sum not exceeding \$25,000,000, to be known as its construction loan fund, to be used in aid of the construction of vessels of the best and most efficient type for the establishment and maintenance of service on steamship lines deemed desirable and necessary by the board, and such vessels shall be equipped with the most modern, the most efficient, and the most economical machinery and commercial appliances. The board shall use such fund to the extent required upon such terms as the board may prescribe to aid persons, citizens of the United States, in the construction by them in private shipyards in the United States of the foregoing class of vessels. No aid shall be for a greater sum than two-thirds of the cost of the vessel or vessels to be constructed, and the board shall require such security, including a first lien upon the entire interest in the vessel or vessels so constructed as it shall deem necessary to insure the repayment of such sum with interest thereon and the maintenance of the service for which such vessel or vessels are built.

SEC. 12. That all vessels may be reconditioned and kept in suitable repair and until sold shall be managed and operated by the board or chartered or leased by it on such terms and conditions as the board shall deem wise for the promotion and maintenance of an efficient merchant marine, pursuant to the policy and purposes declared in sections 1 and 5 of this Act; and the United States Shipping Board Emergency Fleet Corporation shall continue in existence and have authority to operate vessels, unless otherwise directed by law, until all vessels are sold in accordance with the provisions of this Act, the provision in section 11 of the "Shipping Act, 1916," to the contrary notwithstanding.

SEC. 13. That the board is further authorized to sell all property other than vessels transferred to it under section 4 upon such terms and conditions as the board may determine and prescribe.

SEC. 14. That the net proceeds derived by the board prior to July 1, 1921, from any activities authorized by this Act, or by the "Shipping Act, 1916," or by the Acts specified in section 2 of this Act, except such an amount as the board shall deem necessary to withhold as operating capital, for the purposes of section 12 hereof, and for the insurance fund authorized in section 10 hereof, and for the construction loan fund authorized in section 11 hereof, shall be covered into the Treasury of the United States to the credit of the board and may be expended by it, within the limits of the amounts heretofore or hereafter authorized, for the construction, requisitioning, or purchasing of vessels. After July 1, 1921, such net proceeds, less such an amount as may be authorized annually by Congress to be withheld as operating capital, and less such sums as may be needed for such insurance and construction loan funds, shall be covered into the Treasury of the United States as miscellaneous receipts. The board shall, as rapidly as it deems advisable, withdraw investment of Government funds made during the emergency under the authority conferred by the Acts or parts of Acts repealed by section 2 of this Act and cover the net proceeds thereof into the Treasury of the United States as miscellaneous receipts.

SEC. 15. That the board shall not require payment from the War Department for the charter hire of vessels owned by the United States Government furnished by the board from July 1, 1918, to June 30, 1919, inclusive, for the use of such department.

SEC. 16. That all authorization to purchase, build, requisition, lease exchange, or otherwise acquire houses, buildings or land under the Act entitled "An Act to authorize and empower the United States Shipping Board Emergency Fleet Corporation to purchase, lease, requisition, or otherwise acquire, and to sell or otherwise dispose of improved or unimproved lands, houses, buildings, and for other purposes," approved March 1, 1918, is hereby terminated: *Provided, however,* That expenditures may be made under said Act for the repair of houses and buildings already constructed, and the completion of such houses or buildings as have heretofore been contracted for or are under

construction, if considered advisable, and the board is authorized and directed to dispose of all such properties or the interest of the United States in all such properties at as early a date as practicable, consistent with good business and the best interests of the United States.

SEC. 17. That the board is authorized and directed to take over on January 1, 1921, the possession and control of, and to maintain and develop, all docks, piers, warehouses, wharves and terminal equipment and facilities, including all leasehold easements, rights of way, riparian rights and other rights, estates and interests therein or appurtenant thereto, acquired by the President by or under the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses, and for other purposes," approved March 28, 1918.

The possession and control of such other docks, piers, warehouses, wharves and terminal equipment and facilities or parts thereof, including all leasehold easements, rights of way, riparian rights and other rights, estates or interests therein or appurtenant thereto which were acquired by the War Department or the Navy Department for military or naval purposes during the war emergency may be transferred by the President to the board whenever the President deems such transfer to be for the best interests of the United States.

The President may at any time he deems it necessary, by order setting out the need therefor and fixing the period of such need, permit or transfer the possession and control of any part of the property taken over by or transferred to the board under this section to the War Department or the Navy Department for their needs, and when in the opinion of the President such need therefor ceases the possession and control of such property shall revert to the board. None of such property shall be sold except as may be hereafter provided by law.

SEC. 18. That section 9 of the "Shipping Act 1916," is amended to read as follows:

"SEC. 9. That any vessel purchased, chartered, or leased from the board, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided*, That foreign-built vessels admitted to American registry or enrollment and license under this Act, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the board to any person a citizen of the United States, as provided in this Act, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.

"Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or or hold any mortgage, lien, or other interest therein.

"It shall be unlawful to sell, transfer or mortgage, or, except under regulations prescribed by the board, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, or to put the same under a foreign registry or flag, without first obtaining the board's approval.

"Any vessel chartered, sold, transferred, or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both."

SEC. 19. (1) The board is authorized and directed in aid of the accomplishment of the purposes of this Act

(a) To make all necessary rules and regulations to carry out the provisions of this Act;

(b) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or

practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

(c) To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the Steamboat Inspection Service.

(2) No rule or regulation shall hereafter be established by any department, board, bureau, or agency of the Government which affect shipping in the foreign trade, except rules or regulations affecting the Public Health Service, the Consular Service, and the Steamboat Inspection Service, until such rule or regulation has been submitted to the board for its approval and final action has been taken thereon by the board or the President.

(3) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation, or make a new rule or regulation upon request of the board, as provided in subdivision (c) of paragraph (1) of this section, or objects to the decision of the board in respect to the approval of any rule or regulation, as provided in paragraph (2) of this section, either the board or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is hereby authorized to establish or suspend, modify, or annul such rule or regulation.

(4) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States.

SEC. 20. (1) That section 14 of the Shipping Act, 1916, as amended, is amended to read as follows:

"SEC. 14. That no common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property, between a port of a State, Territory, District, or possession of the United States and any other such port or a port of a foreign country,—

"First. Pay, or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow, a deferred rebate to any shipper. The term 'deferred rebate' in this Act means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

"Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term 'fighting ship' in this Act means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing or reducing competition by driving another carrier out of said trade.

"Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

"Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and landing of freight in proper condition; or (c) the adjustment and settlement of claims.

"Any carrier who violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than \$25,000 for each offense."

(2) The Shipping Act, 1916, as amended, is amended by inserting after section 14 a new section to read as follows:

"SEC. 14a. The board upon its own initiative may, or upon complaint shall, after due notice to all parties in interest and hearing, determine whether any person, not a citizen of the United States and engaged in transportation by water of passengers or property—

"(1) Has violated any provision of section 14, or

"(2) Is a party to any combination, agreement, or understanding, express or implied, that involves in respect to transportation of passengers or property between foreign ports, deferred rebates or any other unfair practice designated in section 14, and that excludes from admission upon equal terms with all other parties thereto, a common carrier by water which is a citizen of the United States and which has applied for such admission.

"If the board determines that any such person has violated any such provision or is a party to any such combination, agreement, or understanding, the board shall thereupon certify such fact to the Secretary of Commerce. The Secretary shall thereafter refuse such person the right of entry for any ship owned or operated by him or by any carrier directly or indirectly controlled by him, into any port of the United States, or any Territory, District, or possession thereof, until the board certifies that the violation has ceased or such combination, agreement, or understanding has been terminated."

SEC. 21. That from and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not now covered thereby, and the board is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided*, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor: *Provided, further*, That until Congress shall have authorized the registry as vessels of the United States of vessels owned in the Philippine Islands, the Government of the Philippine Islands is hereby authorized to adopt, from time to time, and enforce regulations governing the transportation of merchandise and passengers between ports or places in the Philippine Archipelago: *And provided further*, That the foregoing provisions of this section shall not take effect with reference to the Philippine Islands until the President of the United States after a full investigation of the local needs and conditions shall, by proclamation, declare that an adequate shipping service has been established as herein provided and fix a date for the going into effect of the same.

SEC. 22. That the Act entitled "An Act giving the United States Shipping Board power to suspend present provisions of law and permit vessels of foreign registry and foreign-built vessels admitted to American registry under the Act of August 18, 1914, to engage in the coastwise trade during the present war and for a period of one hundred and twenty days thereafter, except the coastwise trade with Alaska," approved October 6, 1917, is hereby repealed: *Provided*, That all foreign-built vessels admitted to American registry, owned on February 1, 1920, by persons citizens of the United States, and all foreign-built vessels owned by the United States at the time of the enactment of this Act, when sold and owned by persons citizens of the United States, may engage in the coastwise trade so long as they continue in such ownership, subject to the rules and regulations of such trade: *Provided*, That the board is authorized to issue permits for the carrying of passengers in foreign ships if it deems it necessary so to do, operating between the Territory of Hawaii and the Pacific Coast up to February 1, 1922.

SEC. 23. That the owner of a vessel documented under the laws of the United States and operated in foreign trade shall, for each of the ten taxable years while so operated, beginning with the first taxable year ending after the enactment of this Act, be allowed as a deduction for the purpose of ascertaining his net income subject to the war-profits and excess-profits taxes imposed by Title III of the Revenue Act of 1918 an amount equivalent to the net earnings of such vessel during such taxable year, determined in accordance with rules and regulations to be made by the board: *Provided*, That such owner shall not be entitled to such deduction unless during such taxable year he invested, or set aside under rules and regulations to be made by the board, in a trust fund for investment, in the building in shipyards in the United States of new vessels of a type and kind approved by the board, an amount, to be determined by the Secretary of the Treasury and certified

by him to the board, equivalent to the war-profits and excess-profits taxes that would have been payable by such owner on account of the net earnings of such vessels but for the deduction allowed under the provisions of this section: *Provided further*, That at least two-thirds of the cost of any vessel constructed under this paragraph shall be paid for out of the ordinary funds or capital of the person having such vessel constructed.

That during the period of ten years from the enactment of this Act any person a citizen of the United States who may sell a vessel documented under the laws of the United States and built prior to January 1, 1914, shall be exempt from all income taxes that would be payable upon any of the proceeds of such sale under Title I, Title II, and Title III of the Revenue Act of 1918 if the entire proceeds thereof shall be invested in the building of new ships in American shipyards, such ships to be documented under the laws of the United States and to be of a type approved by the board.

SEC. 24. That all mails of the United States shipped or carried on vessels shall, if practicable, be shipped or carried on American-built vessels documented under the laws of the United States. No contract hereafter made with the Postmaster General for carrying mails on vessels so built and documented shall be assigned or sublet, and no mails covered by such contract shall be carried on any vessel not so built and documented. No money shall be paid out of the Treasury of the United States on or in relation to any such contract for carrying mails on vessels so built and documented when such contract has been assigned or sublet or when mails covered by such contract are in violation of the terms thereof carried on any vessel not so built and documented. The board and the Postmaster General, in aid of the development of a merchant marine adequate to provide for the maintenance and expansion of the foreign or coastwise trade of the United States and of a satisfactory postal service in connection therewith, shall from time to time determine the just and reasonable rate of compensation to be paid for such service, and the Postmaster General is hereby authorized to enter into contracts within the limits of appropriations made therefor by Congress to pay for the carrying of such mails in such vessel at such rate. Nothing herein shall be affected by the Act entitled "An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891.

SEC. 25. That for the classification of vessels owned by the United States, and for such other purposes in connection therewith as are the proper functions of a classification bureau, all departments, boards, bureaus, and commissions of the Government are hereby directed to recognize the American Bureau of Shipping as their agency so long as the American Bureau of Shipping continues to be maintained as an organization which has no capital stock and pays no dividends: *Provided*, That the Secretary of Commerce and the chairman of the board shall each appoint one representative who shall represent the Government upon the executive committee of the American Bureau of Shipping and the bureau shall agree that these representatives shall be accepted by them as active members of such committee. Such representatives of the Government shall serve without any compensation, except necessary traveling expenses: *Provided further*, That the official list of merchant vessels published by the Government shall hereafter contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

SEC. 26. That cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: *Provided*, That nothing herein shall be taken to exempt such vessels from the laws, rules and regulations respecting life-saving equipment: *Provided further*, That when any such vessel carries persons other than the crew as herein provided for, the owner, agent or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law, or of any other condition or circumstance which would constitute a risk of safety for passenger or crew.

The privilege bestowed by this section on vessels of the United States shall be extended insofar as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trades not restricted to vessels under its own flag.

Failure on the part of the owner, agent, or master of the vessel to give such notice shall subject the vessel to a penalty of \$500, which may be mitigated or remitted by the Secretary of Commerce upon a proper representation of the facts.

SEC. 27. That no merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by sections 18 or 22 of this Act: *Provided*, That this section shall not apply to merchandise transported between points within the continental United States, excluding Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon river until the Alaska Railroad shall be completed and the Shipping Board shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic.

SEC. 28. That no common carrier shall charge, collect, or receive, for transportation subject to the Interstate Commerce Act of persons or property, under any joint fare, or charge, or under any export, import, or other proportional rate, fare, or charge, which is based in whole or in part on the fact that the persons or property affected thereby is to be transported to, or has been transported from, any port in a possession or dependency of the United States, or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than that charged, collected, or received by it for the transportation of persons, or of a like kind of property, for the same distance, in the same direction, and over the same route, in connection with commerce wholly within the United States, unless the vessel so transporting such persons or property is, or unless it was at the time of such transportation by water, documented under the laws of the United States. Whenever the board is of the opinion, however, that adequate shipping facilities to or from any port in a possession or dependency of the United States or a foreign country are not afforded by vessels so documented, it shall certify this fact to the Interstate Commerce Commission, and the commission, may by order, suspend the operation of the provisions of this section with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from, or to be transported to, such ports, for such length of time and under such terms and conditions as it may prescribe in such order or in any order supplemental thereto. Such suspension of operation of the provisions of this section may be terminated by order of the commission whenever the board is of the opinion that adequate shipping facilities by such vessels to such ports are afforded and shall so certify to the commission.

SEC. 29. (a) That whenever used in this section—

(1) The term "association" means any association, exchange, pool, combination, or other arrangement for concerted action; and

(2) The term "marine insurance companies" means any persons, companies, or associations, authorized to write marine insurance or reinsurance under the laws of the United States or of a State, Territory, District, or possession thereof.

(b) Nothing contained in the "antitrust laws" as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall be construed as declaring illegal an association entered into by marine insurance companies for the following purposes: To transact a marine insurance and reinsurance business in the United States and in foreign countries and to reinsure or otherwise apportion among its membership the risks undertaken by such association or any of the component members.

SEC. 30. Subsection A. That this section may be cited as the "SHIP MORTGAGE ACT, 1920."

Definitions

Subsection B. When used in this section—

- (1) The term "document" includes registry and enrollment and license;
- (2) The term "documented" means registered or enrolled or licensed under the laws of the United States, whether permanently or temporarily;
- (3) The term "port of documentation" means the port at which the vessel is documented, in accordance with law;
- (4) The term "vessel of the United States" means any vessel documented under the laws of the United States, and such vessel shall be held to continue to be so documented until its documents are surrendered with the approval of the board; and
- (5) The term "mortgagee," in the case of a mortgage involving a trust deed and a bond issue thereunder means the trustee designated in such deed.

Recording of Sales, Conveyances, and Mortgages of Vessels of the United States

Subsection C. (a) No sale, conveyance, or mortgage which, at the time such sale, conveyance, or mortgage is made, includes a vessel of the United States, or any portion thereof, as the whole or any part of the property sold, conveyed, or mortgaged shall be valid, in respect to such vessel, against any person other than the grantor or mortgagor, his heir or devisee, and a person having actual notice thereof, until such bill of sale, conveyance, or mortgage is recorded in the office of the collector of customs of the port of documentation of such vessel, as provided in subdivision (b) of this subsection.

(b) Such collector of customs shall record bills of sale, conveyances, and mortgages, delivered to him, in the order of their reception, in books to be kept for that purpose and indexed to show—

- (1) The name of the vessel;
- (2) The names of the parties to the sale, conveyance, or mortgage;
- (3) The time and date of reception of the instrument;
- (4) The interest in the vessel so sold, conveyed, or mortgaged; and
- (5) The amount and date of maturity of the mortgage.

Subsection D. (a) A valid mortgage which, at the time it is made includes the whole of any vessel of the United States of 200 gross tons and upwards, shall in addition have, in respect to such vessel and as of the date of the compliance with all the provisions of this subdivision, the preferred status given by the provisions of subsection M, if—

- (1) The mortgage is indorsed upon the vessel's documents in accordance with the provisions of this section;
- (2) The mortgage is recorded as provided in subsection C, together with the time and date when the mortgage is so indorsed;
- (3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;
- (4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and
- (5) The mortgagee is a citizen of the United States.

(b) Any mortgage which complies in respect to any vessel with the conditions enumerated in this subsection is hereafter in this section called a "preferred mortgage" as to such vessel.

(c) There shall be indorsed upon the documents of a vessel covered by a preferred mortgage—

- (1) The names of the mortgagor and mortgagee;
- (2) The time and date the indorsement is made;
- (3) The amount and date of maturity of the mortgage; and

(4) Any amount required to be indorsed by the provisions of subdivision (e) or (f) of this subsection.

(d) Such indorsement shall be made (1) by the collector of customs of the port of documentation of the mortgaged vessel, or (2) by the collector of customs of any port in which the vessel is found, if such collector is directed to make the indorsement by the collector of customs of the port of documentation; and no clearance shall be issued to the vessel until such indorsement is made. The collector of customs of the port of documentation shall give such direction by wire or letter at the request of the mortgagee and upon the tender of the cost of communication of such direction. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed upon the new document by the collector of customs.

(e) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be indorsed upon the documents of the vessel.

(f) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be indorsed upon the documents of the vessel. In case such mortgage does not provide for the separate discharge of a vessel and the vessel is to be sold upon the order of a district court of the United States in a suit in rem in admiralty, the court shall determine the portion of the mortgage indebtedness increased by 20 per centum (1) which, in the opinion of the court, the approximate value of the vessel bears to the approximate value of all the vessels covered by the mortgage, and (2) upon the payment of which the vessel shall be discharged from the mortgage.

Subsection E. The collector of customs upon the recording of a preferred mortgage shall deliver two certified copies thereof to the mortgagor, who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the documents of the vessel to be exhibited by the master to any person having business with the vessel, which may give rise to a maritime lien upon the vessel or to the sale, conveyance, or mortgage thereof. The master of the vessel shall, upon the request of any such person, exhibit to him the documents of the vessel and the copy of any preferred mortgage of the vessel placed on board thereof.

Subsection F. The mortgagor (1) shall, upon request of the mortgagee, disclose in writing to him prior to the execution of any preferred mortgage, the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, that is known to the mortgagor, and (2) without the consent of the mortgagee, shall not incur, after the execution of such mortgage and before the mortgagee has had a reasonable time in which to record the mortgage and have indorsements in respect thereto made upon the documents of the vessel, any contractual obligation creating a lien upon the vessel other than a lien for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average or for salvage, including contract salvage, in respect to the vessel.

Subsection G. (a) The collector of customs of the port of documentation shall, upon the request of any person, record notice of his claim of a lien upon a vessel covered by a preferred mortgage, together with the nature, date of creation, and amount of the lien, and the name and address of the person. Any person who has caused notice of his claim to lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file with the collector of customs a certificate of such discharge. The collector of customs shall thereupon record the certificate.

(b) The mortgagor, upon a discharge in whole or in part of the mortgage indebtedness, shall forthwith file with the collector of customs for the port of documentation of the vessel, a certificate of such discharge. Such collector of custom shall thereupon record the certificate. In case of a vessel covered by a preferred mortgage, the collector of customs at the port of documentation shall (1) indorse upon the documents of the vessel, or direct the collector of customs at any port in which the vessel is found, to so indorse, the fact of such discharge, and (2) shall deny clearance to the vessel until such indorsement is made.

Subsection H. (a) No bill of sale, conveyance, or mortgage shall be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed, or mortgaged.

(b) No bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall be recorded unless previously acknowledged before a notary public or other officer authorized by a law of the United States, or of a State, Territory, District, or possession thereof, to take acknowledgment of deeds.

(c) In case of a change in the port of documentation of a vessel of the United States, no bill of sale, conveyance, or mortgage shall be recorded at the new port of documentation unless there is furnished to the collector of customs of such port, together with the copy of the bill of sale, conveyance, or mortgage to be recorded, a certified copy of the record of the vessel at the former port of documentation furnished by the collector of such port. The collector of customs at the new port of documentation is authorized and directed to record such certified copy.

(d) A preferred mortgage may bear such rate of interest as is agreed by the parties thereto.

Subsection I. Each collector of customs shall permit records made under the provisions of this section to be inspected during office hours, under such reasonable regulations as the collector may establish. Upon the request of any person the collector of customs shall furnish him from the records of the collector's office (1) a certificate setting forth the names of the owners of any vessel, the interest held by each owner, and the material facts as to any bill of sale or conveyance of, any mortgage covering, or any lien or other incumbrance upon, a specified vessel, (2) a certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel, or (3) a certified copy as required by subdivision (c) of subsection H. The collector of customs shall collect a fee for any bill of sale, conveyance, or mortgage recorded, or any certificate or certified copy furnished, by him, in the amount of 20 cents a folio with a minimum charge of \$1.00. All such fees shall be covered into the Treasury of the United States as miscellaneous receipts.

Penalties

Subsection J. (a) If the master of the vessel wilfully fails to exhibit the documents of the vessel or the copy of any preferred mortgage thereof, as required by subsection E, the board of local inspectors of vessels having jurisdiction of the license of the master, may suspend or cancel such license, subject to the provisions of "An Act to provide for appeals from decision of boards of local inspectors of vessels and for other purposes," approved June 10, 1918.

(b) A mortgagor who, with intent to defraud, violates any provision of subsection F, and if the mortgagor is a corporation or association, the president or other principal executive officer of the corporation or association, shall upon conviction thereof be held guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than two years, or both. The mortgaged indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

(c) If any person enters into any contract secured by, or upon the credit of, a vessel of the United States covered by a preferred mortgage, and suffers pecuniary loss by reason of the failure of the collector of customs, or any officer, employee, or agent thereof, properly to perform any duty required of the collector under the provisions of this section, the collector of customs shall be liable to such person for damages in the amount of such loss. If any such person is caused any such loss by reason of the failure of the mortgagor, or master of the mortgaged vessel, or any officer, employee, or agent thereof, to comply with any provision of subsection E or F or to file an affidavit as required by subdivision (a) of subsection D, correct in each particular thereof, the mortgagor shall be liable to such person for damages in the amount of such loss. The district courts of the United States are given jurisdiction (but not to the exclusion of the courts of the several States, Territories, Districts, or possessions) of suits for the recovery of such damages, irrespective of the amount involved in the suit or the citizenship of the parties thereto. Such suit shall be begun by personal service upon the defendant within the limits of the district. Upon judgment for the plaintiff in any such suit, the court shall include in the judgment an additional amount for costs of the action and a reasonable counsel's fee, to be fixed by the court.

Foreclosure of Preferred Mortgages

Subsection K. A preferred mortgage shall constitute a lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel. Upon the default of any term or condition of the mortgage, such lien may be enforced by the mortgagee by suit in rem in admiralty. Original jurisdiction of all such suits is granted to the district courts of the United States exclusively. In addition to any notice by publication, actual notice of the commencement of any such suit shall be given by the libellant, in such manner as the court shall direct, to (1) the master, other ranking officer, or caretaker of the vessel, and (2) any person who has recorded a notice of claim of an undischarged lien upon the vessel, as provided in subsection G, unless after search by the libellant satisfactory to the court, such mortgagor, master, other ranking officer, caretaker, or claimant is not found within the United States. Failure to give notice to any such person, as required by this subsection, shall not constitute a jurisdictional defect; but the libellant shall be liable to such person for damages in the amount of his interest in the vessel terminated by the suit. Suit in personam for the recovery of such damages may be brought in accordance with the provisions of subdivision (c) of subsection J.

Subsection L. In any suit in rem in admiralty for the enforcement of the preferred mortgage lien, the court may appoint a receiver and, in its discretion, authorize the receiver to operate the mortgaged vessel. The marshal may be authorized and directed by the court to take possession of the mortgaged vessel notwithstanding the fact that the vessel is in the possession or under the control of any person claiming a possessory common-law lien.

Subsection M. (a) When used hereinafter in this section, the term "preferred maritime lien" means (1) a lien arising prior in time to the recording and indorsement of a preferred mortgage in accordance with the provisions of this section; or (2) a lien for damages arising out of tort, for wages of a stevedore when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, and for salvage, including contract salvage.

(b) Upon the sale of any mortgaged vessel by order of a district court of the United States, in any suit in rem in admiralty for the enforcement of a preferred mortgage lien thereon, all pre-existing claims in the vessel, including any possessory common-law lien of which a lienor is deprived under the provisions of subsection L, shall be held terminated and shall hereafter attach, in like amount and in accordance with their respective priorities to the proceeds of the sale; except that the preferred mortgage lien shall have priority over all claims against the vessel, except (1) preferred maritime liens, and (2) expenses and fees allowed and costs taxed by the court.

Subsection N. (a) Upon the default of any term or condition of a preferred mortgage upon a vessel, the mortgagee may, in addition to all other remedies granted by this section, bring suit in personam in admiralty, in a district court of the United States, against the mortgagor for the amount of the outstanding mortgage indebtedness secured by such vessel or any deficiency in the full payment thereof.

(b) This section shall not be construed, in the case of a mortgage covering, in addition to vessels, realty or personalty other than vessels, or both, to authorize the enforcement by suit in rem in admiralty, of the rights of the mortgagee in respect to such realty or personalty other than vessels.

Transfers of Mortgaged Vessels and Assignment of Vessel Mortgages

Subsection O. (a) The documents of a vessel of the United States covered by a preferred mortgage may not be surrendered (except in the case of the forfeiture of the vessel or its sale by the order of any court of the United States or any foreign country) without the approval of the board. The board shall refuse such approval unless the mortgagee consents to such surrender.

(b) The interest of the mortgagee in a vessel of the United States covered by a mortgage, shall not be terminated by the forfeiture of the vessel for a violation of any law of the United States, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure or omission which constituted such violation.

(c) Upon the sale of any vessel of the United States covered by a preferred mortgage, by order of a district court of the United States in any suit in rem in admiralty, for the enforcement of a maritime lien other than a preferred maritime lien, the vessel shall be sold free from all pre-existing claims thereon; but the court shall, upon the request of the mortgagee, the libellant, or any intervenor, require the purchaser at such sale to give and the mortgagor to accept a new mortgage of the vessel for the balance of the term of the original mortgage. The conditions of such new mortgage shall be the same, so far as practicable, as those of the original mortgage and shall be subject to the approval of the court. If such new mortgage is given, the mortgagee shall not be paid from the proceeds of the sale and the amount payable as the purchase price shall be held diminished in the amount of the new mortgage indebtedness.

(d) No rights under a mortgage of a vessel of the United States shall be assigned to any person not a citizen of the United States without the approval of the board. Any assignment in violation of any provision of this section shall be void.

(e) No vessel of the United States shall be sold by order of a district court of the United States, in any suit in rem in admiralty, to any person not a citizen of the United States.

Maritime Liens for Necessaries

Subsection P. Any person furnishing repairs, supplies, towage, use of dry dock or marine railway, or other necessities, to any vessel, whether foreign or domestic, upon the order of the owner of such vessel, or of a person authorized by the owner, shall have a maritime lien on the vessel, which may be enforced by suit in rem, and it shall not be necessary to allege or prove that credit was given to the vessel.

Subsection Q. The following persons shall be presumed to have authority from the owner to procure repairs, supplies, towage, use of dry dock or marine railway, and other necessities for the vessel: The managing owner, ship's husband, master, or any person to whom the management of the vessel at the port of supply is intrusted. No person tortiously or unlawfully in possession or charge of a vessel shall have authority to bind the vessel.

Subsection R. The officers and agents of a vessel specified in subsection Q shall be taken to include such officers and agents when appointed by a charterer, by an owner pro hac vice, or by an agreed purchaser in possession of the vessel; but nothing in this section shall be construed to confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering the repairs, supplies, or other necessities was without authority to bind the vessel therefor.

Subsection S. Nothing in this section shall be construed to prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway, or other necessities, or the mortgagee, from waiving his right to a lien, or in the case of a preferred mortgage lien, to the preferred status of such lien, at any time, by agreement or otherwise; and this section shall not be construed to affect the rules of law now existing in regard to (1) the right to proceed against the vessel for advances, (2) laches in the enforcement of liens upon vessels, (3) the right to proceed in personam, (4) the rank of preferred maritime liens among themselves, or (5) priorities between maritime liens and mortgages other than preferred mortgages, upon vessels of the United States.

Subsection T. This section shall supersede the provisions of all State statutes conferring liens on vessels, in so far as such statutes purport to create rights of action to be enforced by suits in rem in admiralty against vessels for repairs, supplies, towage, use of dry dock or marine railway, and other necessities.

Miscellaneous Provisions

Subsection U. This section shall not apply (1) to any existing mortgage, or (2) to any mortgage hereafter placed on any vessel now under an existing mortgage, so long as such existing mortgage remains undischarged.

Subsection V. The Secretary of Commerce is authorized and directed to furnish collectors of customs with all necessary books and records, and with certificates of registry and of enrollment and license in such form as provides for the making of all indorsements thereon required by this section.

Subsection W. The Secretary of Commerce is authorized to make such regulations in respect to the recording and indorsing of mortgages covering vessels of the United States as he deems necessary to the efficient execution of the provisions of this section.

Subsection X. Sections 4192 to 4196, inclusive, of the Revised Statutes of the United States, as amended, and the Act entitled "An Act relating to liens on vessels for repairs, supplies, or other necessities," approved June 23, 1910, are repealed. This section, however, so far as not inconsistent with any of the provisions of law so repealed, shall be held a re-enactment of such repealed law, and any right or obligation based upon any provision of such law and accruing prior to such repeal, may be prosecuted in the same manner and to the same effect as if this Act had not been passed.

SEC. 31. That section 4530 of the Revised Statutes of the United States is amended to read as follows:

"SEC. 4530. Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs one-half part of the balance of his wages earned and remaining unpaid at the time when such demand is made at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended, and all stipulations in the contract to the contrary shall be void: *Provided*, such a demand shall not be made before the expiration of, nor oftener than once in five days, nor more than once in the same harbor on the same entry. Any failure on the part of the master to comply with this demand shall release the seaman from his contract and he shall be entitled to full payment of wages earned. And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall be then due him, as provided in section 4529 of the Revised Statutes: *Provided further*, That notwithstanding any release signed by any seaman under section 4552 of the Revised Statutes, any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require: *And provided further*, That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement."

SEC. 32. That paragraph (a) of section 10 of the Act entitled "An Act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June 26, 1884, as amended, is hereby amended to read as follows:

"SEC. 10. (a) That it shall be, and is hereby made, unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order, or note, or other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25 nor more than \$100, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment, whether made within or without the United States or territory subject to the jurisdiction thereof, shall in no case, except as herein provided, absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment, as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than \$500."

SEC. 33. That section 20 of such Act of March 4, 1915, be, and is, amended to read as follows:

"SEC. 20. That any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seaman, as a result of any such personal injury, the personal representative of such seaman may maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of

the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located."

SEC. 34. That in the judgment of Congress, articles or provisions in treaties or conventions to which the United States is a party, which restrict the right of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and in vessels of the United States, and which also restrict the right of the United States to impose discriminatory tonnage dues on foreign vessels and on vessels of the United States entering the United States, should be terminated, and the President is hereby authorized and directed within ninety days after this Act becomes law to give notice to the several Governments, respectively, parties to such treaties or conventions, that so much thereof as imposes any such restriction on the United States will terminate on the expiration of such periods as may be required for the giving of such notice by the provisions of such treaties or conventions.

SEC. 35. That the power and authority vested in the board by this Act, except as herein otherwise specifically provided, may be exercised directly by the board, or by it through the United States Shipping Board Emergency Fleet Corporation.

SEC. 36. That if any provision of this Act is declared unconstitutional or the application of any provision to certain circumstances be held invalid, the remainder of the Act and the application of such provisions to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 37. That when used in this Act, unless the context otherwise requires, the terms "person," "vessel," "documented under the laws of the United States," and "citizen of the United States" shall have the meaning assigned to them by sections 1 and 2 of the "Shipping Act, 1916," as amended by this Act; the term "board" means the United States Shipping Board; and the term "alien" means any person not a citizen of the United States.

SEC. 38. That section 2 of the Shipping Act, 1916, is amended to read as follows:

"SEC. 2. (a) That within the meaning of this Act no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade, the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

"(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(d) The provisions of this Act shall apply to receivers and trustees of all persons to whom the Act applies, and to the successors or assignees of such persons."

SEC. 39. That this Act may be cited as the Merchant Marine Act, 1920.

Shipping Papers
and
Traffic Forms

FORM No. 1

East and West Railroad Company

STRAIGHT BILL OF LADING—ORIGINAL—NOT NEGOTIABLE

Shipper's No. _____

Agent's No. _____

RECEIVED, subject to the classifications and tariffs in effect on the date of issue of this Original Bill of Lading,

at New York, N.Y. July 15, 1921,
 from John Roe & Co. the property described below, in apparent good order, except as

noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

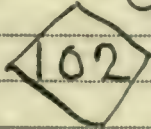
The Rate of Freight from New York
 to Detroit

is in Cents per 100 Lbs.

IF ...Times 1st	IF 1st Class	IF 2d Class	IF Rate 25	IF 3d Class	IF Rate 26	IF Rate 28	IF 4th Class	IF 5th Class	IF 6th Class	IF Class A	IF Class B	IF Class C	IF Class D	IF Class E	IF Special per	IF Special per
				82												

(Mail Address—Not for purposes of Delivery.)

Consigned to John Roe & Co.
 Destination Detroit State of Mich. County of Wayne
 Route W & W c/o Wabash Car Initial EW Car No. 21682

No. PACKAGES	DESCRIPTION OF ARTICLES AND SPECIAL MARKS	WEIGHT (Subject to Correction)	Rate and Authority	FREIGHT CHARGES	ADVANCES	PREPAID
150	One hundred and fifty Bxs Rubber Battery Jars	22500	82			
						

Per John Roe & Co. Shipper. Per J. Smith Agent
W

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

FORM No. 1

(Reverse Side)

CONDITIONS

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request, or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

Claims must be made in writing to the originating or delivering carrier within six months after delivery of the property (or, in case of export traffic, within nine months after delivery at port of export), or, in case of failure to make delivery, then within six months (or nine months in case of export traffic) after a reasonable time for delivery has elapsed. Provided that if the loss, damage or injury was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claims shall be required as a condition precedent to recovery. Suits for loss, damage or injury shall be instituted not later than two years and one day after the day on which notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim, or any part or parts thereof, specified in the notice. Where claims for loss, damage or delay are not filed, or suits are not instituted thereon, in accordance with the foregoing provisions, the carrier will not be liable and such claims will not be paid.

Any carrier or party liable on account of loss or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 3. All property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 4. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or

warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 5. No carrier will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classification or tariffs, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 6. Every party, whether principal or agent, shipping explosive or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 7. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Sec. 8. Except in case of diversion from rail to water route, which is provided for in section 2 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statutes or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances; or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

If the property is being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in accordance with the provisions of the tariff, which shall be treated as incorporated into the conditions of this Bill of Lading.

Sec. 9. Any alteration, addition or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

East and West Railroad Company

Agent's No.

192

The Rate of Freight from .

is in Cents per 100 lbs.

(Mail Address—Not for purposes of Delivery.)

Route,	Car Initial,	Car No.
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[illegible]

Agent must detach and retain this Shipping Order and must sign the Original Bill of Lading.

FORM No. 2

(Reverse Side)

CONDITIONS

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon requests of the shipper, owner or party entitled to make such request, or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

Claims must be made in writing to the originator or delivering carrier within six months after delivery of the property (or, in case of export traffic, within nine months after delivery at port of export), or, in case of failure to make delivery, then within six months (or nine months in case of export traffic) after a reasonable time for delivery has elapsed. Provided that if the loss, damage or injury was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claims shall be required as a condition precedent to recovery. Suits for loss, damage or injury shall be instituted not later than two years and one day after the day on which notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim, or any part or parts thereof, specified in the notice. Where claims for loss, damage or delay are not filed, or suits are not instituted thereon, in accordance with the foregoing provisions, the carrier will not be liable and such claims will not be paid.

Any carrier or party liable on account of loss or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 3. All property shall be subject to necessary co-operation and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 4. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or

warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 5. No carrier will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classification or tariffs, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 6. Every party, whether principal or agent, shipping explosives or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 7. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Sec. 8. Except in case of diversion from rail to water route, which is provided for in section 2 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statute or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances; or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

If the property is being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in accordance with the provisions of the tariff, which shall be treated as incorporated into the conditions of this Bill of Lading.

Sec. 9. Any alteration, addition or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

FORM No. 3

East and West Railroad Company

ORDER BILL OF LADING—ORIGINAL

Shipper's No.

Agent's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of issue of this Original Bill of Lading.

at New York N.Y. July 11, 1921,
 from John Roe & Co.

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place of delivery at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

The surrender of this Original ORDER Bill of Lading properly indorsed shall be required before the delivery of the property. Inspection of property covered by this bill of lading will not be permitted unless provided by law or unless permission is indorsed on this original bill of lading or given in writing by the shipper.

The Rate of Freight from

New York, N.Y.to Jackson, Mich.

is in Cents per 100 Lbs.

IF Times 1st	IF 1st Class	IF 2d Class	IF Rule 25	IF 3d Class	IF Rule 26	IF Rule 28	IF 4th Class	IF 5th Class	IF 6th Class	IF Class A	IF Class B	IF Class C	IF Class D	IF Class E	IF Special per	IF Special per
	138 1/2															

(Mail Address—Not for purposes of Delivery.)

Consigned to ORDER OF John Roe & Co.Destination, Jackson State of Mich. County of JacksonNotify John Roe & Co.At 100 Main St., Jackson State of Mich. County of JacksonRoute, D. & W. & M. C. R.R. Car Initial D & W Car No. 26000

No. PACKAGES	DESCRIPTION OF ARTICLES AND SPECIAL MARKS	WEIGHT (Subject to Correction)	Rate and Authority	FREIGHT CHARGES	ADVANCES	PREPAID
50	Fifty cs. Machinery 1 to 50 101	6000	1.38 1/2			
(Sample Copy)						

John Roe & Co

Shipper.

J. Smith
W

Agent.

Per

Per

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

FORM No. 3

(Reverse Side)

ENDORSEMENTS

John Roe & Co.

CONDITIONS

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereto or damage thereof, except as hereinbefore provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request, or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire, in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

Claims must be made in writing to the originating or delivering carrier within six months after delivery of the property (or, in case of export traffic, within nine months after delivery at port of export), or, in case of failure to make delivery, then within six months (or nine months in case of export traffic) after a reasonable time for delivery has elapsed. Provided that if the loss, damage or injury was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claims shall be required as a condition precedent to recovery. Suits for loss, damage or injury shall be instituted not later than two years and one day after the day on which notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim, or any part or parts thereof, specified in the notice. Where claims for loss, damage or delay are not filed, or suits are not instituted thereon, in accordance with the foregoing provisions, the carrier will not be liable and such claims will not be paid.

Any carrier or party liable on account of loss or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 3. All property shall be subject to necessary coöperation and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 4. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or

warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 5. No carrier will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classification or tariffs, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 6. Every party, whether principal or agent, shipping explosive or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 7. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Sec. 8. Except in case of diversion from rail to water route, which is provided for in section 3 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statutes or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances; or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

If the property is being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in accordance with the provisions of the tariff, which shall be treated as incorporated into the conditions of this Bill of Lading.

Sec. 9. Any alteration, addition or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

East and West Railroad Company

Shipper's No.
Agent's No.

The surrender of the Original ORDER Bill of Lading properly indorsed shall be required before the delivery of the property. Inspection of property covered by the bill of lading will not be permitted unless provided by law or unless permission is indorsed on the original bill of lading or given in writing by the shipper.

10 _____

is in Cents per 100 Lbs.

[illegible]

(Mail Address—Not for purposes of Delivery.)

Destination, State of County of

At _____, State of _____, County of _____,

Route, _____ Car Initial, _____ Car No., _____

[illegible]

Agent.

Per

Per

(Conditions on reverse of this Form are the same as Form No. 2)

FORM No. 4

(Reverse Side)

CONDITIONS

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request, or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

Claims must be made in writing to the originating or delivering carrier within six months after delivery of the property (or, in the case of export traffic, within nine months after delivery at port of export) or, in case of failure to make delivery, then within six months (or nine months in case of export traffic) after a reasonable time for delivery has elapsed. Provided that if the loss, damage or injury was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claims shall be required as a condition precedent to recovery. Suits for loss, damage or injury shall be instituted not later than two years and one day after the day on which notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim, or any part or parts thereof, specified in the notice. Where claims for loss, damage or delay are not filed, or suits are not instituted thereon, in accordance with the foregoing provisions, the carrier will not be liable and such claims will not be paid.

Any carrier or party liable on account of loss or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 3. All property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if no delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 4. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or

warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 5. No carrier will carry or be liable in any way for any documents specie, or for any articles of extraordinary value not specifically rated in the published classification or tariffs, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 6. Every party, whether principal or agent, shipping explosives or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 7. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Sec. 8. Except in case of diversion from rail to water route, which is provided for in section 2 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statute or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances; or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

If the property is being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in accordance with the provisions of the tariff, which shall be treated as incorporated into the conditions of this Bill of Lading.

Sec. 9. Any alteration, addition or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

East and West Railroad Company

Agent's No.

from the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned and destined as indicated below, which said Company agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

The Rate of Freight from

[illegible]

Route..... Car Initial..... Car No.....

[illegible][illegible]

(Conditions on reverse of this Form are the same as on Form No. 2)

FORM No. 5

(Reverse Side)

CONDITIONS

Section 1. The carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto, except as hereinafter provided.

No carrier or party in possession of any of the property herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, or for differences in the weights of grain, seed, or other commodities caused by natural shrinkage or discrepancies in elevator weights. For loss, damage, or delay caused by fire occurring after forty-eight hours (exclusive of legal holidays) after notice of the arrival of the property at destination or at port of export (if intended for export) has been duly sent or given, the carrier's liability shall be that of warehouseman only. Except in case of negligence of the carrier or party in possession (and the burden to prove freedom from such negligence shall be on the carrier or party in possession), the carrier or party in possession shall not be liable for loss, damage, or delay occurring while the property is stopped and held in transit upon request of the shipper, owner or party entitled to make such request, or resulting from a defect or vice in the property or from riots or strikes. When in accordance with general custom, on account of the nature of the property, or when at the request of the shipper the property is transported in open cars, the carrier or party in possession (except in case of loss or damage by fire in which case the liability shall be the same as though the property had been carried in closed cars) shall be liable only for negligence, and the burden to prove freedom from such negligence shall be on the carrier or party in possession.

Sec. 2. No carrier is bound to transport said property by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch, unless by specific agreement indorsed hereon. Every carrier shall have the right in case of physical necessity to forward said property by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

Claims must be made in writing to the originating or delivering carrier within six months after delivery of the property (or, in case of export traffic, within nine months after delivery at port of export), or, in case of failure to make delivery, then within six months (or nine months in case of export traffic) after a reasonable time for delivery has elapsed. Provided that if the loss, damage or injury was due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, then no notice of claim nor filing of claims shall be required as a condition precedent to recovery. Suits for loss, damage or injury shall be instituted not later than two years and one day after the day on which notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim, or any part or parts thereof, specified in the notice. Where claims for loss, damage or delay are not filed, or suits are not instituted thereon, in accordance with the foregoing provisions, the carrier will not be liable and such claims will not be paid.

Any carrier or party liable on account of loss or damage to any of said property shall have the full benefit of any insurance that may have been effected upon or on account of said property, so far as this shall not avoid the policies or contracts of insurance.

Sec. 3. All property shall be subject to necessary cooperage and baling at owner's cost. Each carrier over whose route cotton is to be transported hereunder shall have the privilege, at its own cost and risk, of compressing the same for greater convenience in handling or forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. Grain in bulk consigned to a point where there is a railroad, public, or licensed elevator, may (unless otherwise expressly noted herein, and then if it is not promptly unloaded) be there delivered and placed with other grain of the same kind and grade without respect to ownership, and if so delivered shall be subject to a lien for elevator charges in addition to all other charges hereunder.

Sec. 4. Property not removed by the party entitled to receive it within forty-eight hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given may be kept in car, depot, or place of delivery of the carrier, or

warehouse, subject to a reasonable charge for storage and to carrier's responsibility as warehouseman only, or may be, at the option of the carrier, removed to and stored in a public or licensed warehouse at the cost of the owner and there held at the owner's risk and without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

The carrier may make a reasonable charge for the detention of any vessel or car, or for the use of tracks after the car has been held forty-eight hours (exclusive of legal holidays), for loading or unloading, and may add such charge to all other charges hereunder and hold such property subject to a lien therefor. Nothing in this section shall be construed as lessening the time allowed by law or as setting aside any local rule affecting car service or storage.

Property destined to or taken from a station, wharf, or landing at which there is no regularly appointed agent shall be entirely at risk of owner after unloaded from cars or vessels or until loaded into cars or vessels, and when received from or delivered on private or other sidings, wharves, or landings shall be at owner's risk until the cars are attached to and after they are detached from trains.

Sec. 5. No carrier will carry or be liable in any way for any documents, specie, or for any articles of extraordinary value not specifically rated in the published classification or tariffs, unless a special agreement to do so and a stipulated value of the articles are indorsed hereon.

Sec. 6. Every party, whether principal or agent, shipping explosives or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.

Sec. 7. The owner or consignee shall pay the freight and all other lawful charges accruing on said property, and, if required, shall pay the same before delivery. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped.

Sec. 8. Except in case of diversion from rail to water route, which is provided for in section 2 hereof, if all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the liabilities, limitations, and exemptions provided by statute and to the conditions contained in this bill of lading not inconsistent with such statute or this section, and subject also to the condition that no carrier or party in possession shall be liable for any loss or damage resulting from the perils of the lakes, sea, or other waters; or from explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery, or appurtenances; or from collision, stranding, or other accidents of navigation, or from prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have the liberty to call at intermediate ports, to tow and be towed, and assist vessels in distress, and to deviate for the purpose of saving life or property.

The term "water carriage" in this section shall not be construed as including lighterage across rivers or in lake or other harbors, and the liability for such lighterage shall be governed by the other sections of this instrument.

If the property is being carried under a tariff which provides that any carrier or carriers party thereto shall be liable for loss from perils of the sea, then as to such carrier or carriers the provisions of this section shall be modified in accordance with the provisions of the tariff, which shall be treated as incorporated into the conditions of this Bill of Lading.

Sec. 9. Any alteration, addition or erasure in this bill of lading which shall be made without an indorsement thereof hereon, signed by the agent of the carrier issuing this bill of lading, shall be without effect, and this bill of lading shall be enforceable according to its original tenor.

Live Stock Contract

This form of contract to be used for shipments of Live Stock and Wild Animals instead of Uniform Bill of Lading.

Uniform Live Stock Contract—Duplicate—Original—Not Negotiable

192

day of

192 by and between

RAILROAD

party of the first part, hereinafter called the carrier, and

(Shipper's name)

party of the second part, hereinafter called the shipper:

WHEREAS, The classifications and tariffs under which this agreement is made require that, for the purpose of applying the lawful rate of freight, the shipper must declare the shipment to be "Ordinary Live Stock," specifying the kind or kinds of animals, or if not "Ordinary Live Stock" he must declare the kind and value of each animal, space for such declaration being provided below:

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, That the carrier has received from the shipper, subject to the classifications and tariffs in effect on the date of issue of this agreement, the live stock described below, in apparent good order, except as noted, consigned and destined as indicated below, which the carrier agrees to carry to its usual place of delivery at said destination, if on its road, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said live stock over all or any portion of said route to destination, and as to each party at any time interested in all or any of said live stock, that every service to be performed and every liability incurred in connection with said shipment shall be subject to all the conditions, whether printed or written, herein contained (including conditions on back hereof) and which are agreed to by the shipper and accepted for himself and his assigns.

Consigned to

Destination

State of _____

County of _____

Route

Car Initials and Numbers

[illegible]

If charges are to be prepaid, write or stamp here, "To be prepaid."

Acknowledgment to be used if freight is prepaid

Received \$
described hereon.

to apply in prepayment of the charges on the property

Per

Agent or Cashier.

(The signature here acknowledges only the amount prepaid)

Charges advanced 8

Witness my hand

Shipper.

By _____ Shipper's Agent. _____ RAILROAD

Witness.

By

Agree

FORM No. 6

(Reverse Side)

CONTRACT WITH MAN OR MEN IN CHARGE OF LIVE STOCK

Station

192

In consideration of the carriage of the undersigned upon a freight train in charge of the live stock mentioned in the within contract, whether with or without charge for such carriage, each one of the undersigned severally hereby voluntarily assumes all risk of accident or damage to his person or property, and hereby releases and discharges each and every carrier from every claim, liability, or demand of any kind for or on account of any personal injury or damage of any kind sustained by him, whether the same be caused by the negligence of such carrier or any of its employees or otherwise; and agrees that whenever he shall leave the caboose and pass over or along the cars or track, he will do so at his own risk of personal injury, from whatever cause, and that no carrier shall be required to stop or start its train or caboose cars at or from the depots or platforms, or to furnish light for his accommodation or safety.

Signature
of Man or Men
in charge.

Witness.

CONDITIONS

SECTION 1. No carrier of any of the live stock herein described shall be liable for any loss thereof or damage thereto or delay caused by the act of God, the public enemy, quarantine, the authority of law, or the act or default of the shipper or owner, nor except in case of its negligence by riots, strikes or stoppage of labor, or resulting from causes beyond its control.

Unless caused by the negligence of the carrier or its employees, no carrier shall be liable for or on account of any injury or death sustained by said live stock occasioned by any or either of the following causes: overloading, crowding one upon another, kicking or goring, suffocation, fright, burning of hay or straw or other material used for feeding or bedding, fire from any cause whatever, heat, cold, changes in weather, delay caused by stress of weather or obstruction of track.

SEC. 2. In issuing this contract this company agrees to transport only over its own line, and except as otherwise provided by law, acts only as agent with respect to the portion of the route beyond its own line. No carrier shall be liable for loss, damage, delay or injury not occurring on its own road, or its portion of the through route, nor after said live stock has been delivered to the next carrier except as such liability is or may be imposed by law, but nothing contained in this contract shall be deemed to exempt the initial carrier from liability so imposed.

SEC. 3. No carrier is bound to transport said live stock by any particular train or vessel, or in time for any particular market, or otherwise than with reasonable despatch. Every carrier shall have the right in case of physical necessity to forward said live stock by any railroad or route between the point of shipment and the point of destination; but if such diversion shall be from a rail to a water route the liability of the carrier shall be the same as though the entire carriage were by rail.

The amount of any loss or damage for which any carrier is liable shall be computed on the basis of the value of the live stock at the place and time of shipment under this contract, including the freight charges, if paid, but shall in no case exceed the amounts stated herein by the shipper.

Except in cases where the loss, damage or injury complained of is due to delay or damage while being loaded or unloaded, or damaged in transit by carelessness or negligence, claims must be made in writing to the carrier at the point of delivery or at the point of origin within four months after delivery of the live stock, or, in case of failure to make delivery, then within four months after a reasonable time for delivery has elapsed.

Suits for recovery of claims for loss, damage or delay shall be instituted only within two years after delivery of the live stock, or, in case of failure to make delivery, then within two years after a reasonable time for delivery has elapsed.

Any carrier or party liable on account of loss of or damage to any of said live stock shall have the full benefit of any insurance that may have been effected upon or on account of said live stock, so far as this shall not avoid the policies or contracts of insurance.

SEC. 4. The owner or consignee shall pay the freight and all other lawful charges accruing on said shipment, and, if required, shall pay the same before delivery.

SEC. 5. The shipper at his own risk and expense shall load and unload said live stock, and, in case any person shall accompany said live stock in charge of the same, take care of, feed and water said live stock while being transported, whether delayed in transit or otherwise, and see that all doors and openings in said car or cars are at all times so closed and fastened as to prevent the escape therefrom of any of said live stock.

SEC. 6. The shipper shall inspect the body of the car or cars in which said live stock is to be transported, and satisfy himself that they are sufficient and safe, and in proper order and condition, and no carrier shall be liable on account of any loss or of injury to said live stock occurring by reason of any insufficiency in or defective condition of the body of said car or cars, which reasonably could have been discovered by the shipper.

SEC. 7. Any person accompanying said live stock in charge of the same, leaving the caboose and passing over or along the cars or track, shall do so at his own risk of personal injury from any cause whatever, and no carrier shall be required to stop or start its trains or caboose cars at or from the depots or platforms, or to furnish lights for the accommodation or safety of any person accompanying said live stock.

SEC. 8. Any alteration, addition, or erasure in this contract, which shall be made without an endorsement thereof hereon, signed by the agent of the carrier issuing this agreement, shall be without effect, and this agreement shall be enforceable according to its original tenor.

FORM No. 7

EXPORT BILL OF LADING

THIS BILL OF LADING is issued in Exchange for Bill of Lading No. _____, issued at _____
 on the _____ day of _____, by the _____ Railroad

East and West Railroad Company

Export Bill of Lading No. _____ File No. _____ Contract Number _____
 Dated at _____ day of _____ 192____
 Received at _____ From _____
 the following property in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, numbered, consigned and destined as indicated below.
 Consignee and Destination _____

Party to be notified _____

MARKS AND NUMBERS	ARTICLES
<p>ORIGINAL CAR NUMBERS AND INITIALS</p>	
<p>United States Export License No. _____</p> <p>Railroad Permit No. _____</p>	<p>Weight _____ Pounds. (Subject to Correction.)</p> <p>(*U. S. Law requires Agents issuing Bill of Lading to write either "shipper's" or "carrier's" before "weight.")</p>

To be carried to the port (A) of _____ and thence by _____ (Name of Steamship Line. Not name of Vessel.)
 to the port (B) _____ (or so near thereto as steamer may safely get, with liberty to call at any port or ports in or out of the customary route), and to be there delivered in like good order and condition as above consigned, or to consignee's assigns, or to another carrier on the route to destination if consigned beyond said port (B), upon payment immediately on discharge of the property, of the freight thereon, at the rate from _____ to _____ of Inland rate: _____

Cartage to Steamer, if any: _____

Ocean rate: _____

Through rate: _____

cents, United States gold currency, per one hundred pounds gross weight (unless otherwise specified) and advanced charges (\$ _____), with all other charges and average, without any allowance of credit or discount; settlement to be made on the basis of 4 shillings 2 pence, 4.25 marks, 5.25 francs, 2.50 Dutch guilders, 3.80 kroner to the dollar, United States gold currency; if in other currency than herein provided for, settlement to be made at the rate of \$4.80 to the pound sterling, at the current rate of exchange officially quoted on the day the ocean steamer enters the Custom House at its port of discharge, for which banker's short-sight bills on London can be bought; when ocean freight is prepaid, \$4.86 United States gold is equivalent to one pound sterling.

In consideration of the rate of freight herein named, it is hereby stipulated that the service to be performed hereunder shall be subject to the conditions, whether printed or written, herein contained, and said conditions are hereby agreed to by the shipper and by him accepted for himself and his assigns as just and reasonable.

IN WITNESS WHEREOF, The Agent signing on behalf of the said _____, and of the said Ocean Steamship Company or Ocean Steamer and her Owner, severally and not jointly, hath affirmed to _____ Bills of Lading, all of this tenor and date, one of which Bills being accomplished, the others to stand void.

On behalf of carriers severally but not jointly

Per _____

Agent.

REVERSE OF FORM No. 7

CONDITIONS

Any alteration, addition, or erasure in this bill of lading which shall be made without the special notation hereon of the agent of the carrier issuing this bill of lading shall be void.

I.—With respect to the service until delivery at the port (A) first above mentioned it is agreed that:—

1. No carrier or party in possession of all or any of the property herein described, shall be liable for any loss thereof or damage thereto, by causes beyond its control; or by floods or by fire; or by quarantine; or by riots, strikes or stoppage of labor; or by leakage, breakage, chafing, loss in weight, changes in weather, heat, frost, wet or decay; or from any cause if it be necessary or is usual to carry such property upon open cars.
2. No carrier is bound to carry said property by any particular train or vessel, or in time for any particular market, or otherwise than with as reasonable despatch as its general business will permit. Every carrier shall have the right, in case of necessity, to forward said property by any railroad or route between the point of shipment and the place to which the rate is given.
3. No carrier shall be liable for loss or damage not occurring on its own road or its portion of the through route, nor after said property is ready for delivery to the next carrier or to consignee. The amount of any loss or damage for which any carrier becomes liable shall be computed at the value of the property at the place and time of shipment under this bill of lading, unless a lower value has been agreed upon or is determined by the classification upon which the rate is based; in either of which events such lower value shall be the maximum price to govern such computation. Claims for loss, damage or delay must be made in writing to the carrier at the port of export or to the carrier issuing this bill of lading within nine months after delivery of the property at said port (A), or, in case of failure to make such delivery, then within six months after a reasonable time for such delivery has elapsed; and claims so made against said delivering or issuing carrier shall be deemed to have been made against any carrier which may be liable hereunder. Unless claims are so made the carrier shall not be liable.
4. All property shall be subject to necessary cooerage and baling at owner's cost. Each carrier over whose route Cotton is to be carried hereunder, shall have the privilege, at its own cost, of compressing the same for greater convenience in handling and forwarding, and shall not be held responsible for deviation or unavoidable delays in procuring such compression. No carrier shall be liable for differences in weights or for shrinkage of any grain or seed carried in bulk.
5. Property not removed by the person or party entitled to receive it within twenty-four hours after its arrival at destination (Port A), may be kept in the car, depot or place of delivery of the carrier; the sole risk of the owner of said property, and there held subject to lien for all freight and other charges. Property taken from a station at which there is no regularly appointed agent, shall be entirely at risk of owner until loaded into cars; and when received from private or other sidings, shall be at owner's risk until the cars are attached to trains.
6. No carrier hereunder will carry, or be liable in any way for any documents, specie or for any article of extraordinary value not specifically rated in the published classifications, unless a special agreement to do so, and a stipulated value of the articles, are endorsed hereon.
7. Every party, whether principal or agent, shipping inflammable, explosive or dangerous goods, without previous full written disclosure to the carrier of their nature, shall be liable for all loss or damage caused thereby, and such goods may be warehoused at owner's risk and expense or destroyed without compensation.
8. If upon inspection it is ascertained that the articles shipped are not those described in this bill of lading, the freight charges must be paid upon the articles actually shipped, and at the rates and under the rules provided for by published classifications.
9. If all or any part of said property is carried by water over any part of said route, such water carriage shall be performed subject to the further conditions, that no carrier or party shall be liable for any loss or damage resulting from the perils of the lakes, sea or other waters; or from explosion, burstings of boilers, breakage of shafts, or any latent defect in hull, machinery or appurtenances; or from collision, stranding, or other accidents of navigation; or from the prolongation of the voyage. And any vessel carrying any or all of the property herein described shall have liberty to call at intermediate ports; to tow and be towed, and to assist vessels in distress, and to deviate for the purpose of saving life or property.
10. No carrier shall be liable for delay, nor in any other respect than as warehousemen, while the said property awaits further conveyance, and in case the whole or any part of the property specified herein be prevented by any cause from going from said port in the first steamer of the ocean line above stated, leaving after the arrival of such property at said port, the carrier hereunder then in possession is at liberty to forward said property by succeeding steamer of said line, or, if deemed necessary, by any other steamer.
11. This contract is executed and accomplished, and all liability hereunder terminates on the delivery of the said property to the steamer, her master, agent or servants, or to the steamship company, or on the steamer pier at the said port, and the inland freight charges shall be a first lien, due and payable by the steamship company.

II.—With respect to the service after delivery at the port (A) first above mentioned, and until delivery at the port (B) second above mentioned, it is agreed that:—

- That the steamer shall have liberty to sail with or without pilots; that the carrier shall have liberty to convey goods in craft and/or lighters to and from the steamer at the risk of the owners of the goods; and, in case the steamer shall put into a port of refuge, or be prevented from proceeding in the ordinary course of her voyage, to transship the goods to their destination by any other steamer; that the carrier shall not be liable for loss or damage occasioned by fire from any cause or whosoever occurring; by battery of the master or crew, by enemies, pirates or robbers; by arrest or restraint of princes, rulers or people, riots, strikes, or stoppage of labor; by explosion, bursting of boilers, breakage of shafts, or any latent defect in hull, machinery or appurtenances, or unseaworthiness of the steamer, whether existing at time of shipment or at the beginning of the voyage, provided the owners have exercised due diligence to make the steamer seaworthy; by heating, frost, decay, rust, sweating, change of character, drainage, leakage, breakage, vermin, or by explosion of any of the goods whether shipped with or without disclosure of their nature, or any loss or damage arising from the nature of the goods or the insufficiency of packages; nor for inland damage; nor for the obliteration, erasure, insufficiency or absence of marks, numbers, addresses or descriptions; nor for risk of craft, hull or transshipment; nor for any loss or damage caused by the prolongation of the voyage, and that the carrier shall not be concluded as to correctness of statements herein of quality, quantity, gauge, contents, weight and value.
1. General Average payable according to York-Antwerp Rules. If the owner of the steamer shall have exercised due diligence to make said steamer in all respects seaworthy and properly manned, equipped and supplied, it is hereby agreed that in case of danger, damage or disaster resulting from fault or negligence of the pilot, master or crew in the navigation or management of the steamer, or from latent or other defects, or unseaworthiness of the steamer, whether existing at time of shipment, or at the beginning of the voyage, but not discoverable by due diligence, the consignees or owners of the cargo shall not be exempted from liability for contribution in General Average, or for any special charges incurred, but with the shipowner, shall contribute in General Average, and shall pay such special charges, as if such danger, damage or disaster had not resulted from such fault, negligence, latent or other defects or unseaworthiness.
 2. That this shipment until delivery at the port (B) second above mentioned is subject to all the terms and provisions of, and all the exemptions from liability contained in the act of Congress of the United States, approved on the 13th day of February, 1893, and entitled "An Act relating to the navigation of vessels, etc."
 3. That the value of each package receipted for as above does not exceed the sum of one hundred dollars unless otherwise stated herein, on which basis the rate of freight is adjusted.
 4. That the carrier shall not be liable for articles specified in Section 4281 of the Revised Statutes of the United States, unless written notice of the true character and value thereof is given at the time of lading and entered in the bill of lading.
 5. That shippers shall be liable for any loss or damage to steamer or cargo, caused by inflammable, explosive or dangerous goods, shipped without full disclosure of their nature, whether such shipper be principal or agent; and such goods may be thrown overboard or destroyed at any time without compensation.
 6. That the carrier shall have a lien on the goods for all freights, priuages and charges, and also for all fines or damages which the steamer or cargo may incur or suffer by reason of the goods, or manifest marking, numbering, or addressing of packages or description of their contents.
 7. That in case the steamer shall be prevented from reaching her destination by Quarantine, the carrier may discharge the goods into any depot or lazaretto, and such discharge shall be deemed a final delivery under this contract, and all the expenses thereby incurred on the goods shall be a lien thereon.
 8. That the steamer may commence discharging immediately on arrival and discharge continuously, any custom of the port to the contrary notwithstanding, the Collector of the Port being hereby authorized to grant a general order for discharge immediately on arrival, and if the goods be not taken from the steamer by the consignee directly they come to hand in discharging the steamer, the master or steamer's agent to be at liberty to enter and land the goods, or put them into craft or store at the wharf or at the risk and expense of the goods, which shall be deemed delivered and steamer's responsibility ended, but the steamer and carrier to have a lien on such goods until the payment of all costs and charges so incurred.
 9. That if on a sale of the goods at destination for freight and charges, the proceeds fail to cover said freight and charges, the carrier shall be entitled to recover the difference from the shipper.
 10. That full freight is payable on damaged or unsound goods; but no freight is due on any increase in bulk or weight caused by the absorption of water during the voyage.
 11. That in the event of claims for short delivery when the steamer reaches her destination, the price shall be the market price at the port of destination on the day of the steamer's entry at the Custom House, less all charges saved; steamer being only responsible for such part of the goods as have been actually delivered to the steamer at the port (A) first above mentioned, and steamer not liable for any loss or damage that may have occurred before such delivery, while agreeing to promptly present to inland carriers for account of owners of goods any claims for shortage or loss or damage that may have occurred before delivery of goods at the port (A) first above mentioned.
 12. That merchandise on wharf awaiting shipment or delivery be at shipper's risk of loss or damage not happening through the fault or negligence of the owner, master, agent, or manager of the steamer, any custom of the port to the contrary notwithstanding.
 13. That this bill of lading, duly endorsed, be given up to the steamer's consignee in exchange for delivery order.
 14. That freight prepaid will not be returned, goods lost or not lost.
 15. That parcels for different consignees collected or made up in single packages addressed to one consignee, pay full freight on each parcel.
 16. That freight payable on weight is to be paid on gross weight landed from ocean steamer, unless otherwise agreed to or herein otherwise provided or unless the carrier elects to take the freight on the net weight, but inland freight and charges paid on wheat, peas, maize, or other grain, or seed, or other bulk articles, from point of shipment to seaboard, shall be paid by consignee at destination on the weight delivered on board ocean steamer.
 17. It is stipulated that in case the whole or any part of the articles specified herein be prevented by any cause from going in the first steamer leaving after the arrival of such articles at said port, the carrier is only bound to forward them by succeeding steamers employed in the Steamship Line, or if deemed necessary by said carrier it may forward them in other steamers.
 18. That the property covered by this bill of lading is subject to all conditions expressed in the regular forms of bills of lading in use by the Steamship Company at time of shipment, and to all local rules and regulations at port of destination not expressly provided for by the clauses herein.
 19. That if the goods are destined beyond the port (B) second above mentioned, the transshipment to connecting carrier shall be at the risk of the owner of the goods, but at steamer's expense, and that all liability of the Steamship Company hereunder terminates on due delivery to connecting carrier.

III.—With respect to the service after delivery at the port (B) second above mentioned, and until delivery at ultimate destination if destined beyond that port, it is agreed that:—

1. In case the regular steamship service to final port of delivery should for any reason be suspended or interrupted, the carrier, at the option of the owner or consignee of the goods, or the holder of the bill of lading, may forward the goods to the nearest available port, this to be considered a final delivery; or to store them at the port (B) second above mentioned at the risk and expense of the goods until regular service to the final port of destination is opened again.
2. That the property shall be subject exclusively to all the conditions of the carrier or carriers completing the transit; the duty of notification above provided for shall fall exclusively within the obligation of the carrier completing the transit, and no prior carrier shall be responsible for the fulfillment of that obligation.

AND FINALLY, in accepting this bill of lading, the shipper, owner and consignee of the goods, and the holder of the bill of lading, agree to be bound by all of its stipulations, exceptions and conditions, whether written or printed, as fully as if they were all signed by such shipper, owner, consignee or holder.

ATTENTION OF SHIPPERS IS CALLED TO THE ACT OF CONGRESS OF 1851, which provides that any person or persons shipping Oil of Vitriol, Unslaked Lime, Inflammable Matches, or Gunpowder, in a ship or vessel taking cargo for divers persons on freight, without delivering AT THE TIME OF SHIPMENT a note in writing expressing the nature and character of such merchandise, to the master, mate, or officer or person in charge of the handling of the ship or vessel, shall forfeit to the UNITED STATES ONE THOUSAND DOLLARS.

(Notations of Transfers, Passing Stamps, Etc., Should Be Placed in Blank Space Below)

Note in WEIGHT Column Symbol Designating Basis for Weight	
R	Railroad Scale
A	Weighing Bureau or Agree- ment
A	Tariff, Classification or Minimum
S	Shipper's or Tested Weight
E	Estimated

WAYBILL

East and West Railroad Company

Freight Bill No.....

Length of Car	Feet	Inches.	Marked Capacity of Car	Lbs.	C. L. Minimum	Lbs.
Weighted at		Scales	<div> Gross Lbs. Tare Lbs. Net Lbs. </div>	ROUTE No.	COMMODITY No.	L or F.
Point of Origin		Connecting Line	Reference	Original Car		
Waybilled From			Waybill No.	Date		192
Shipper			to			
			Via			
Consigned to						
Destination			State of	County of		
Route				Car		

[illegible]

FORM No. 9**East and West Railroad Company****FREIGHT BILL**

FOR CHARGES ON ARTICLES TRANSPORTED

MAKE CHECK PAYABLE TO

(Agent will insert name of Company)

Freight Bill No. 2020

Freight Bill Date July 20, 1921

Length of Car 36 Feet 6 Inches.

Marked Capacity of Car

Lbs. C. L. Minimum 24000 Lbs.

ROUTE No. COMMODITY No. L. or F.

Point of Origin

Connecting Line Reference

Original Car E. & W. 21682

Waybilled New York
From

Waybill No. 16

Date July 15, 1921

Shipper John Roe & Co.

to

Consigned John Doe & Co.
to

Via


Destination Detroit

State of Mich.

County of Wayne

Route D. L. & W. c/o Wabash

Car E. & W. 21682

No. PACKAGES	DESCRIPTION OF ARTICLES AND SPECIAL MARKS	WEIGHT		Rate and Authority	FREIGHT CHARGES	ADVANCES	
		Based on					
150	Boxes Rubber Battery Jars <div style="text-align: center;">  </div> 22500 lbs. as		24000	82	196.80		

Claims for errors, loss or
damage should be presented
promptly to Freight Agent.**Amount To Be Paid**
R.R. Charges . 196.80
War Tax . . . 5.90
Total . . . \$202.70

Received payment for the Company,

Freight Agent

East and West Railroad Company

ARRIVAL NOTICE

Freight Bill Date July 20, 1921

Lbs. C. L. Minimum 24000 Lbs.

Point of Origin

Connecting Line Reference

Original Car E. & W. 21682

Waybilled New York From

Waybill No. 16

Date July 15, 1921

Shipper John Roe & Co.

to

Consigned John Doe & Co.
to

Via

Destination Detroit

State of Mich.

County of Wayne

Route D. L. & W. c/o Wabash

Car E. & W. 21682

(Over)

FREIGHT TRAFFIC GUIDE

REVERSE OF FORM No. 10

To Freight Agent,

Please deliver the articles covered by Arrival Notice on reverse side to.....

Signature.....Consignee

192

DELIVERY RECEIPT

Received from.....in good condition the articles described in Arrival Notice on reverse side.

Signature.....Consignee

Date of Delivery.....192

RECEIVED, in good order from the
on account of articles described on reverse side:

Railroad

[illegible]

East and West Railroad Company

DELIVERY RECEIPT

RECEIVED FROM

(Agent will insert name of Company)

IN GOOD CONDITION THE ARTICLES DESCRIBED BELOW

Freight Bill No.

Freight Bill Date

Length of Car	Feet	Inches	Marked Capacity of Car	Lbs.	C. L. Minimum	Lbs.
---------------	------	--------	------------------------	------	---------------	------

ROUTE No.	COMMODITY No.	L. or F.
-----------	---------------	----------

Point of Origin

Connecting Line Reference

Original Car

Waybilled From

Date 192

Shipper

Waybill No.

to

Via

Consigned
to

Destination

State of

County of _____

Route

Car

No. PACKAGES	DESCRIPTION OF ARTICLES AND SPECIAL MARKS	WEIGHT		Rate and Authority	FREIGHT CHARGES	ADVANCES	
		Based on					

DEPOSITED IN MAIL BOX	ARRIVAL NOTICE SENT BY U. S. MAIL
DATE	ADDRESS
TIME	
BY WHOM	

SIGNATURE

DATE OF DELIVERY

TIME

CONSIGNEE

192

FORM No. 12**Form for Tracing Shipments**

(Name of Agent)

Date

(Name of Carrier)

File No

(Address)

In replying please refer to above
File Number.

(City)

Dear Sir:

The shipment described below has not been delivered. Please trace and effect delivery as quickly as possible advising us date and to whom delivered. This tracer will serve as a formal notice of our intention to file a claim in the event of your not being able to establish delivery of the shipment described herein.

DESCRIPTION OF SHIPMENT

Consigned to

Destination

Post-Office Address

Shipped from

Date

Route

Car Initial

Car No

Mark

Charges

(Prepaid or Collect)

No. Packages	ARTICLES	Weight

Remarks

Kindly acknowledge receipt of this tracer, giving your tracer number, and oblige,

Yours truly,

(Name of Shipper)

FREIGHT TRAFFIC GUIDE

FORM No. 13

East and West Railroad Company

OFFICE OF FREIGHT CLAIM AGENT

LETTER OF INDEMNITY

19.....

.....hereby guarantee to protect the

.....or any connecting

(Name of Carrier)

carrier or carriers, as their respective interests may appear, against any and all damage, loss,

costs, expenses and attorneys' fees which may result from the payment of ^{my}_{our} claim No.amounting to \$.....Freight Claim Agent's No.for ^{loss of}_{damage to}

shipment ofconsigned by

fromto

atcovered by W/B No.

fromtodated

the original receipt for freight charges paid having been requested and
bill of ladingbeing unable to furnish same account
(Lost or destroyed)

Signed

Witness:

FORM No. 14

For Delivery of Order Consignment without surrender of Original Bill of Lading upon deposit of 125% of Invoice

LETTER OF INDEMNITY

192

(City)

(State)

(Date)

To the

Railroad Company,

(Insert name of delivering carrier)

hereinafter called the delivering carrier, the initial carrier of the property hereinafter mentioned, and all carriers participating in the transportation of said property, as their respective interests may appear, as well as to the successors and/or assigns of each and every of the carriers aforementioned:

The enclosed

(Certified check, Bank's check, U. S. Postal Money Order, American Railway Express Company Money Order, or amount in cash)

for

Dollars (\$), is

given the

Railroad Company for

(Insert name of delivering carrier)

the purpose of security as hereinafter mentioned, and of obtaining delivery without surrender of the original bill of lading properly endorsed, of:

(Give description of property)

which was on or about the

day of

192

shipped from

, State of

by

(Insert name of shipper)

consigned to the order of

destination

, State of

Notify

, at

State of

billed on waybill No.

from

to

, dated , 192 ;

and because the original bill of lading issued for said property has been

(Insert delayed, lost or destroyed)

The undersigned certifies that the invoice value of the aforesaid property is

Dollars (\$)

The undersigned hereby requests the delivering carrier to deliver said property to

at

without surrender of the original bill of lading, properly endorsed, and in consideration of such delivery the undersigned hereby agrees to fully indemnify and save harmless the aforesaid delivering carrier, the initial carrier herein, and all carriers participating in the transportation of the property herein, its and their assigns and successors, from and against all claims and demands whatsoever, actions, suits, costs, recoveries, judgments or executions, which may be made, brought, had, recovered or levied against the aforesaid delivering carrier, or against the initial carrier herein, or against any of the carriers participating in the transportation of the aforesaid property, or any of its or their assigns or successors, by reason of the delivery of the said property as aforesaid without the surrender of the original bill of lading properly endorsed; and further agrees to pay all loss, damage and expense whatsoever, either direct or indirect, which the aforesaid delivering carrier or any of the carriers participating in the transportation of the said property as aforesaid, its or their assigns or successors, may sustain or incur by reason of any of the matters aforesaid; and also agrees to deliver to the aforesaid delivering carrier said original bill of lading properly endorsed when the same shall be had or found.

It is understood and agreed that the money hereby given or represented, when received or collected, as the case may be, by the delivering carrier herein, is to be retained by that carrier as security for the faithful performance by the undersigned of his, its, or their obligations above stated, until surrender by the undersigned, to the delivering carrier, of the original bill of lading properly endorsed, or until acceptance by the Treasurer of the delivering carrier of a surety bond in accordance with the requirements of that carrier.

WITNESSES

(SEAL)

(SEAL)

FREIGHT TRAFFIC GUIDE

REVERSE OF FORM NO. 14

FOR DELIVERY OF
ORDER CONSIGNMENT WITHOUT
SURRENDER OF
ORIGINAL BILL OF LADING
UPON DEPOSIT OF 125% OF INVOICE

LETTER OF INDEMNITY

Given by

To

Railroad Company

And

PARTICIPATING CARRIERS

Dated....., 192

On account of.....

INSTRUCTIONS

- 1 Insert at top of the letter location and date, indicating where and when the letter of indemnity is given.
- 2 Insert corporate title of delivering carrier on line 2.
- 3 Insert description on line 6 and amount of security given (125% of the invoice value of property) in words and figures on line 7.
- 4 Fill in description of property and details of billing as fully as possible on lines 11 to 22.
- 5 The reason for the non-production of original bill of lading should be inserted on line 23 by the party furnishing the letter.
- 6 Invoice value of the property, determined from copy of invoice to be furnished agent, if available, is to be inserted in words and figures on lines 24 and 25, and the delivery of the property desired must be clearly indicated on lines 26 and 27.
- 7 The letter to be executed by the notify party, the order party, the shipper or owner, in the presence of two (2) witnesses, who sign in the spaces provided for their names at the bottom. The witness requirement does not apply to corporations.
- 8 If the letter is given by an individual, he should sign his name on the first line at the bottom.
- 9 If the letter is given by a co-partnership, it should be signed first in the partnership name, followed by the individual signatures of all the partners. If for any reason all of the partners cannot sign and one of the partners is authorized to sign for the firm, the letter should be executed thus:—"Smith & Company,
by James Smith, a member of said firm."
- 10 If the letter is executed by a corporation, it should be executed with the corporate seal, signed by the proper officer, namely, President, Vice President, or other duly authorized officer or person, and should be attested by the Secretary or other duly authorized officer or person. The execution by the corporation should be in the following form:
"Jones & Brown Company,
By.....President."
- 11 The letter of indemnity must be completed, fully signed, and delivered to the agent, together with certified check (or other valuable consideration as indicated) drawn to the order of the delivering carrier, before the shipment is released, whereupon the letter of indemnity and check (or other security except cash) must be immediately forwarded to the Division Freight Agent by valuable Railroad Service Mail.

Cash security must be included in Agent's first regular remittance to Bank, and accounted for on A. D. 8605 to Auditor of Local Freight Traffic.

FORM No. 15

Bond for Delivery of Order Consignment without Surrender of Original Bill of Lading

KNOW ALL MEN BY THESE PRESENTS, That we

2 _____
 3 of _____, State of _____
 4 as principal(s), and _____
 5 of _____, State of _____
 6 as surety, are held and firmly bound unto the _____
 7 _____ (Insert name of delivering carrier)
 8 Railroad Company, hereinafter called the delivering carrier, unto the initial
 9 carrier of the property mentioned herein, and all carriers participating in the transportation of said property, as their respective
 10 interests may appear, its and their assigns and successors, in the sum of _____
 11 Dollars (\$ _____), lawful money of the United States of
 12 America, for which payment, well and truly to be made to the aforesaid carriers, their assigns and/or successors, as their respective
 13 successors, jointly and severally, firmly by these presents.

14 Signed, sealed and dated this _____ day of _____, A. D. 192_____
 15 WHEREAS, certain property described as follows:

16 _____
 17 (Give description of property)
 18 _____
 19 was on or about the _____ day of _____, A. D. 192_____
 20 shipped from _____, State of _____
 21 by _____
 22 consigned to the order of _____
 23 destination _____, State of _____
 24 notify _____, at _____
 25 _____, State of _____
 26 billed on waybill No. _____, from _____, 192_____
 27 to _____, dated _____, 192_____
 28 and at the time of such shipment a bill of lading covering said property was duly issued; and
 29 WHEREAS, said property is now in the possession of the aforesaid delivering carrier, and before the same is delivered the aforesaid
 30 delivering carrier is entitled, under the terms of said bill of lading, to the surrender of the same properly endorsed; and WHEREAS, the above bounden
 31 the above bounden _____ claim(s) to be the owner(s) of

32 _____ (Insert name(s) of individual(s) or corporation(s) giving bond)
 33 said property and to be entitled to possession of the aforesaid bill of lading, but is not able immediately to produce and surrender
 34 to the aforesaid delivering carrier the said bill of lading properly endorsed; and WHEREAS, the above bounden

35 _____ (Insert name(s) of individual(s) or corporation(s) giving bond)
 36 has requested the aforesaid delivering carrier to deliver the said property to _____
 37 _____ (Insert name(s) of individual(s) or corporation(s) to whom delivery is to be made)
 38 without the surrender of the aforesaid bill of lading properly
 39 endorsed; and WHEREAS, the invoice value of said property is the sum of _____ Dollars (\$ _____);

40 NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said
 41 _____ (Insert name(s) of individual(s) or corporation(s) giving bond)
 42 _____ their
 43 _____ his heirs, executors,
 44 _____ its
 45 administrators, assigns and successors, shall fully indemnify and save harmless the aforesaid delivering carrier, the initial carrier
 46 herein, and all carriers participating in the transportation of the property herein, its and their assigns and successors, from and
 47 against all claims and demands whatsoever, actions, suits, costs, recoveries, judgments or executions, which may be made, brought,
 48 had, recovered or levied against the aforesaid delivering carrier, or against the initial carrier herein, or against any of the carriers
 49 participating in the transportation of the aforesaid property, or any of its or their assigns or successors, by reason of the delivery
 50 of the said property as aforesaid without the surrender of the original bill of lading properly endorsed; and shall pay all loss, damage
 51 and expense whatsoever, either direct or indirect, which the aforesaid delivering carrier or any of the carriers participating in the
 52 transportation of the said property as aforesaid, its or their assigns or successors, may sustain or incur by reason of any of the mat-
 53 ters aforesaid; and shall deliver to the aforesaid delivering carrier said original bill of lading properly endorsed when the same shall
 54 be had or found, then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed and delivered
 in the presence of:

 _____ (SEAL)
 _____ (SEAL)
 _____ Principal(s)
 _____ (SEAL)
 _____ (SEAL)
 _____ Surety (Sureties)

REVERSE OF FORM No. 15

ACKNOWLEDGMENT BY INDIVIDUAL(S)

COUNTY OF _____, ss.
 STATE OF _____, ss.
 On the _____ day of _____, A. D. 192____, before me, the sub-
 scribe, a _____ in and for the said County, personally appeared the within-named
 and acknowledged and declared that
 he signed, sealed and delivered the within bond as his act and deed, for the purposes therein mentioned, the full contents of the
 they said bond having been first made known unto him by me.
 Witness my hand and seal the day and year aforesaid.

(Signature)

(Office of officer taking acknowledgment)

On account of	Dated	CONNECTING CARRIERS	And	Railroad Company	To	Given by	Bond of Indemnity	\$

ACKNOWLEDGMENT BY CORPORATION

STATE OF _____, ss.
 COUNTY OF _____, ss.
 On the _____ day of _____, A. D. 192____, before me, personally
 came _____, to me known, who, being by me duly sworn,
 did depose and say, that he resides in _____; that he is the _____
 of the _____, the corporation
 (Title of officer) (Name of corporation)
 described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instru-
 ment is such corporate seal; that it was so affixed by order of the board of directors of the said corporation, and that he signed his name
 thereto by like order.

(Signature and office of officer taking acknowledgment)

INSTRUCTIONS

- (1) If the bond is given by individual(s) full name(s) should be inserted in the space on line 2; also where the individual is doing business under some other name this should be indicated on line 2, thus: "John Smith, trading as Smith Grocery Company."
- (2) If the bond is given by a co-partnership the full names of all the partners should be inserted in the space on line 2; also on line 2 the partnership name should follow the names of the individual partners, thus: "John Smith, William Jones and Charles Brown, co-partners, trading as Smith & Company."
- (3) If the bond is given by a corporation its full corporate name should be given in the space on line 2; also on line 3 the State of its incorporation should be given, thus: "a corporation of the State of Pennsylvania."
- (4) The name or names of the surety or sureties should be inserted in the space on line 4. If a corporation the State of its incorporation on line 5.
- (5) The name of the party to whom the property is to be delivered should be inserted in full on lines 35 and 36.
- (6) The amount of the bond should be inserted on line 10, and the invoice value of the property on line 37. The amount of the bond must be twice the value of the property.
- (7) The corporate title of the delivering carrier should be inserted on lines 6 and 7.
- (8) The bond should be executed in the presence of two (2) witnesses who should sign in the spaces provided for their names at the bottom. This does not apply to corporations.
- (9) If the bond is given by an individual he should sign his name on the first line opposite the printed seal at the bottom.
- (10) If the bond is given by a co-partnership it should be signed first in the partnership name followed by the individual signatures of all the partners, each partner signing opposite one of the printed seals. If for any reason all of the partners cannot sign and one of the partners is authorized to sign for the firm, the bond should be executed thus: "Smith & Company,
 by James Smith, a member of said firm."
- (11) If the bond is executed by a corporation it should be executed with the corporate seal, signed by the proper officer, namely, President, Vice-President or other duly authorized officer, and should be attested by the Secretary or other duly authorized officer. The signature of the corporation should be in the following form: "Jones & Brown Company,
 by _____ President."
- (12) Executions by corporate sureties must be supported by attaching to bond proper evidence of authority of those who sign to bind their companies.

East and West Railroad Company

(Name of Industry)

4 P.M.

192

NOTE 3—Shippers should, at the hour of making this report (4 P.M.), be able to definitely determine and state the number of empties which will be on hand at 6.00 P.M.

[illegible]

Shipper

FORM No. 17**APPLICATION FOR CHANGE IN CLASSIFICATION**

Mr.

Chairman Classification Committee

At

Date 19

1. NAME AND FULL DESCRIPTION OF ARTICLE:

.....

2. USES:

3. MADE OF:

4. HOW PACKED FOR SHIPMENT:

LESS CARLOADS:

CARLOADS:

5. IF KNOCKED DOWN, TO WHAT EXTENT:

6. DIMENSIONS AND WEIGHT OF ARTICLE OR PACKAGE:

7. WEIGHT PER CUBIC FOOT:

8. VALUE OF ARTICLE:

9. VALUE PER CUBIC FOOT:

10. Weight that can be loaded in
Standard car 36 feet in length,
8 feet 6 inches wide and 8 feet high
(Inside measurement): }

11. IS THE ARTICLE SHIPPED IN STRAIGHT CARLOADS:

12. IF SHIPPED IN STRAIGHT CARLOADS, HOW MANY CARS PER ANNUM:

13. IF SHIPPED IN MIXED CARLOADS WITH OTHER ARTICLES, MENTION THE ARTICLES:

.....

14. WHERE PRODUCED:

.....

REMARKS:

(State if Sample or Illustration will be Furnished)

SIGNATURE }

and
ADDRESS }

FORM No. 18

STANDARD FORM FOR PRESENTATION OF OVERCHARGE CLAIMS

Approved by the Interstate Commerce Commission, the National Industrial Traffic League,
the Freight Claim Association

(Name of person to whom claim is presented)	(Address of claimant)	(Claimant's Number)
(Name of carrier)	(Date)	(Carrier's Number)
(Address)		

This claim for \$_____ is made against the carrier named above by _____
(Amount of claim) (Name of claimant)

for Overcharge in connection with the following described shipments:

Description of shipment _____

Name and address of consignor (shipper) _____

Shipped from _____, To _____
(City, town or station) (City, town or station)

Final Destination _____ Routed via _____
(City, town or station)

Bill of Lading issued by _____ Co.; Date of Bill of Lading _____

Paid Freight Bill (Pro) Number _____; Original Car Number and Initial _____

Name and address of consignee (Whom shipped to) _____

If shipment reconsigned en route, state particulars: _____

Nature of Overcharge _____
(Weight, rate or classification, etc.)

DETAILED STATEMENT OF CLAIM

NOTE.—If claim covers more than one item taking different rates and classification, attach separate statement showing how overcharge is determined and insert totals in space below.

	No. of PKGS.	ARTICLES	WEIGHT	RATE	CHARGES	AMOUNT OF OVERCHARGE
Charges Paid:						/
		Total				
Should have been:						
		Total				

Authority for rate or classification claimed _____
(Give, so far as practicable, tariff reference (I. C. C. number, effective date and page or item))

IN ADDITION TO THE INFORMATION GIVEN ABOVE, THE FOLLOWING DOCUMENTS ARE
SUBMITTED IN SUPPORT OF THIS CLAIM *

- () 1. Original paid freight ("expense") bill.
- () 2. Original invoice, or certified copy, when claim is based on weight or valuation, or when shipment has been improperly described.
- () 3. Original Bill of Lading, if not previously surrendered to carrier, when shipment was prepaid, or when claim is based on misrouting or valuation.
- () 4. Weight certificate or certified statement when claim is based on weight.
5. Other particulars obtainable in proof of Overcharge claimed: _____

Remarks _____

The foregoing statement of facts is hereby certified to as correct.

(Signature of claimant)

*Claimant should assign to each claim a number, inserting same in the space provided at the upper right hand corner of this form. Reference should be made thereto in all correspondence pertaining to this claim.

*Claimant will please place check (x) before such of the documents mentioned as have been attached, and explain under "Remarks" the absence of any of the documents called for in connection with the claim. When for any reason it is impossible for claimant to produce original bill of lading if required, or paid freight bill, claimant should indemnify carrier or carriers against duplicate claim supported by original documents.

*Claims for overcharge on shipments of lumber should also be supported by a statement of the number of feet, dimensions, kind of lumber and length of time on sticks before being shipped.

Claim based on rates quoted in letters from traffic official should be supported by the original or copies of such letters.

FORM No. 19

STANDARD FORM FOR PRESENTATION OF LOSS AND DAMAGE CLAIMS

**Approved by the Interstate Commerce Commission, the National Industrial Traffic League,
the Freight Claim Association**

(Name of person to whom claim is presented)	(Address of claimant)	(Claimant's Number)
(Name of carrier)	(Date)	(Carrier's Number)
(Address)		

This claim for \$_____ is made against the carrier named above by _____
 for _____ in connection with the following described shipments: _____
 (Amount of claim) (Name of claimant)
 (Loss or damage)

Description of shipment _____
 Name and address of consignor (shipper) _____
 Shipped from _____, To _____
 (City, town or station) (City, town or station)

Final Destination _____ Routed via _____
 (City, town or station)

Bill of Lading issued by _____ Co.; Date of Bill of Lading _____
 Paid Freight Bill (Pro) Number _____; Original Car Number and Initial _____
 Name and address of consignee (Whom shipped to) _____
 If shipment reconsigned en route, state particulars: _____

DETAILED STATEMENT SHOWING HOW AMOUNT CLAIMED IS DETERMINED
(Number and description of articles, nature and extent of loss or damage, invoice price of articles, amount of claim, etc.)

		Total Amount Claimed	
--	--	----------------------	--

IN ADDITION TO THE INFORMATION GIVEN ABOVE, THE FOLLOWING DOCUMENTS ARE
SUBMITTED IN SUPPORT OF THIS CLAIM*

- () 1. Original bill of lading, if not previously surrendered to carrier.
() 2. Original paid freight ("expense") bill.
() 3. Original invoice or certified copy.
4. Other particulars obtainable in proof of loss or damage claimed:

Remarks

The foregoing statement of facts is hereby certified to as correct.

(Signature of claimant)

4 Claimant should assign to each claim a number, inserting same in the space provided at the upper right hand corner of this form. Reference should be made thereto in all correspondence pertaining to this claim.

*Claimant will please place check (x) before such of the documents mentioned as have been attached, and explain under "Remarks" the absence of any of the documents called for in connection with this claim. When for any reason it is impossible for claimant to produce original bill of lading, or paid freight bill, claimant should indemnify carrier or carriers against duplicate claim supported by original documents.

FORM No. 20**STANDARD FORM FOR THE HANDLING OF CONCEALED
LOSS AND CONCEALED DAMAGE CLAIMS****CONSIGNEE'S FORM****Information in Lieu of Affidavit Required from Consignee in Support of Claim for Concealed
Loss or Concealed Damage**

Shipper's Claim No. _____

Consignee's Claim No. _____

DESCRIPTION OF SHIPMENT

Point of Origin _____

Destination _____

Date _____

Number of Packages _____

Shipper _____

Consignee _____

Commodity _____

INFORMATION REQUIRED	ANSWERS
1. Was the shipment handled by your own truck?.....	
(a) If not, give name of trucking company.....	
(b) Give name of driver in either case, if known.....	
(c) If not received by truck, state how received.....	
2. On what date was shipment received at your place of business?.....	
3. On what date was loss or damage discovered?.....	
(a) By whom discovered?.....	
4. On what date was carrier notified of the loss or damage?.....	
(a) Who was notified of loss or damage?.....	
(b) If inspected, by whom and on what date?.....	
(NOTE: Attach hereto any report inspector made.)	
5. What condition of contents, wrappers or cartons indicated loss or damage?.....	
6. Kind of package.....	
(a) Of what material constructed?.....	
7. Was examination of container made before opening?.....	
(a) Was examination of container made after opening?.....	
(b) What evidence was there, if any, indicating that the con- tainer had been tampered with?.....	
(c) Was container sealed, strapped or corded?.....	
8. Was the container packed to its full capacity with the property shipped?.....	
(a) If not, what material occupied the remaining space?.....	

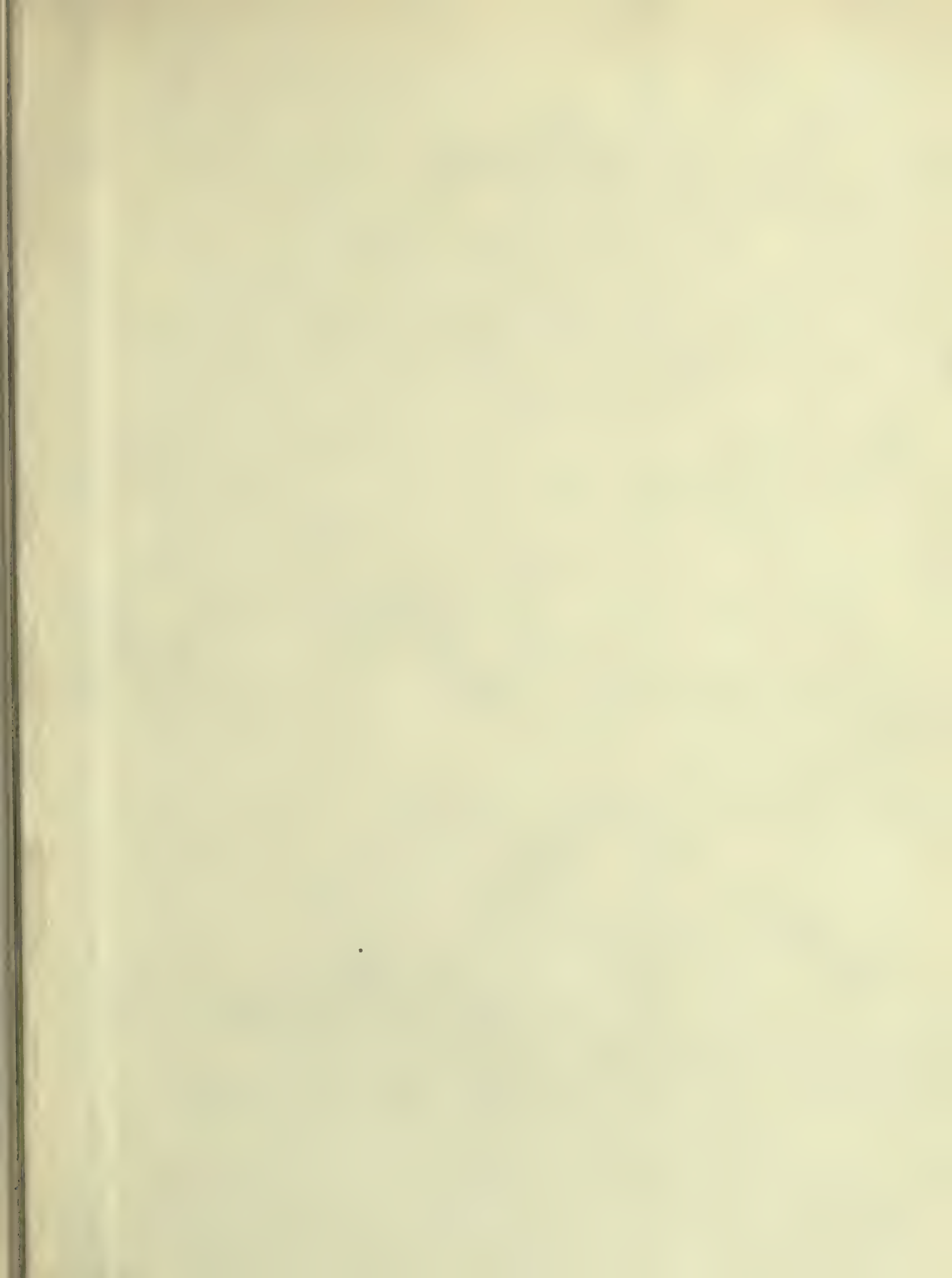
I hereby certify the foregoing statement of facts to be true in every particular, to the best of my knowledge and belief.

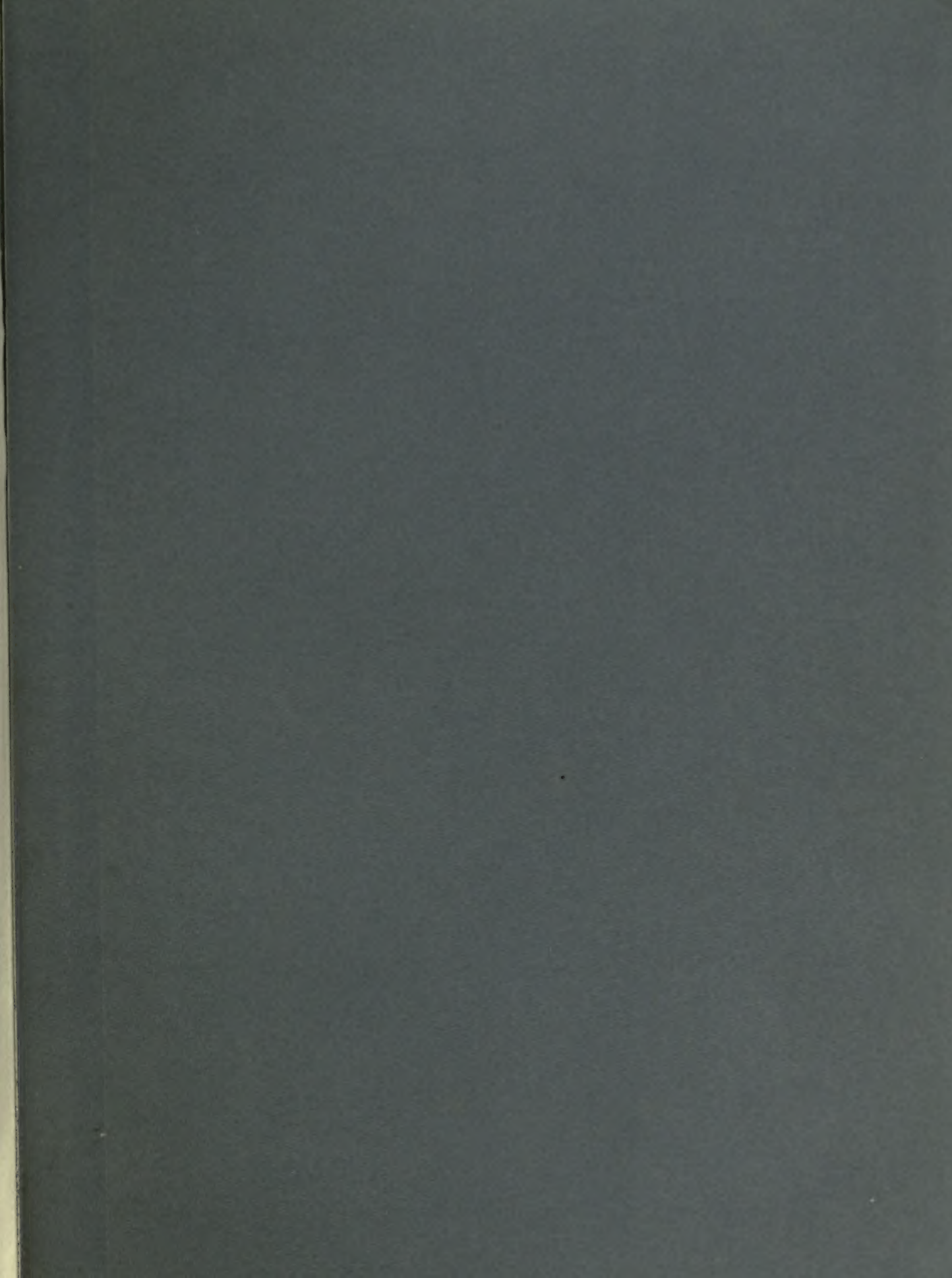
Dated at _____

Signature _____

Date _____ 19 _____

In what capacity employed _____





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Freight traffic guide.

